



# FEDERAL REGISTER

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# Contents

Federal Register

Vol. 86, No. 166

Tuesday, August 31, 2021

## Agency for Healthcare Research and Quality

### NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 48703–48705

## Agricultural Marketing Service

### NOTICES

2021/2022 Rates Charged for AMS Services:  
Revised Tobacco Grading Rates, 48659–48660

## Agriculture Department

See Agricultural Marketing Service  
See Animal and Plant Health Inspection Service  
See Food and Nutrition Service

## Animal and Plant Health Inspection Service

### NOTICES

Concurrence with the World Organization for Animal Health's Risk Designations for Bovine Spongiform Encephalopathy, 48660

## Centers for Disease Control and Prevention

### NOTICES

Guidance:  
U.S. Medical Eligibility Criteria for Contraceptive Use and U.S. Selected Practice Recommendations for Contraceptive Use, 48706–48707

## Children and Families Administration

### NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:  
Legal Services for Unaccompanied Children, 48710–48711  
Monitoring and Compliance for ORR Care Provider Facilities, 48707–48710

## Civil Rights Commission

### NOTICES

Meetings:  
Pennsylvania Advisory Committee, 48664  
Virginia Advisory Committee, 48665

## Commerce Department

See Foreign-Trade Zones Board  
See International Trade Administration  
See National Oceanic and Atmospheric Administration

## Community Living Administration

### NOTICES

Intent to Award a Supplement for the Lifespan Respite Program:  
Special Projects to Strengthen Program Development, Implementation and Sustainability, 48711–48712

## Denali Commission

### NOTICES

Fiscal Year 2022 Draft Work Plan, 48670–48671

## Employee Benefits Security Administration

### NOTICES

Meetings:  
Advisory Council on Employee Welfare and Pension Benefit Plans, 48767–48768

## Energy Department

See Federal Energy Regulatory Commission  
See Western Area Power Administration

## Environmental Protection Agency

### RULES

Air Quality State Implementation Plans; Approvals and Promulgations:  
District of Columbia; Regional Haze State Implementation Plan for the Second Implementation Period and Reasonably Available Control Technology for Major Stationary Sources of Nitrogen Oxides; Technical Amendment, 48504–48507

Pesticide Tolerances:

Acequinocyl, 48507–48511

### NOTICES

Access to Information Claimed as Confidential Business Information:  
Eastern Research Group and PG Environmental, 48696–48697  
Agency Information Collection Activities; Proposals, Submissions, and Approvals:  
Methylene Chloride; Regulation of Paint and Coating Removal for Consumer Use under TSCA Section 6(a), 48700–48702  
State Operating Permit Program, 48692–48693  
Application:  
Pesticide Experimental Use Permit, 48691–48692  
Final Scope of the Risk Evaluation to be Conducted under the Toxic Substances Control Act:  
Di-isodecyl Phthalate, 48695–48696  
Di-isononyl Phthalate, 48693–48695  
Pesticide Product Registration:  
Receipt of Applications for New Uses—August 2021, 48697–48700  
Proposed CERCLA Cost Recovery Settlement:  
Apple Valley Shopping Center Superfund Site, Town of LaGrange, Dutchess County, NY, 48697

## Federal Aviation Administration

### RULES

Airspace Designations and Reporting Points:  
Pocahontas, IA, 48493–48494  
Scott City, KS, 48496–48497  
Standish, MI, 48494–48495  
Tuscaloosa, AL, 48495–48496

Airworthiness Directives:

Airbus SAS Airplanes, 48485–48490  
ATR—GIE Avions de Transport Regional Airplanes, 48490–48493

The Boeing Company Airplanes, 48483–48485  
Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures:  
Miscellaneous Amendments, 48497–48503

**PROPOSED RULES**

Airspace Designations and Reporting Points:  
Palestine, TX; Withdrawal, 48610

**NOTICES**

Passenger Facility Charge Program:  
Eligibility of Ground Access Projects Meeting Certain  
Criteria, 48793–48794  
Petition for Exemption; Summary:  
San Antonio Air Charter, 48794

**Federal Communications Commission****RULES**

Call Authentication Trust Anchor:  
Appeals of the STIR/SHAKEN Governance Authority  
Token Revocation Decisions, 48511–48521  
Television Broadcasting Services:  
Fredericksburg, TX, 48538–48539  
Superior and York, NE, 48537–48538  
Wireline Competition Bureau Finalizes Application Filings,  
Procedures, Cost Catalog, and Replacement List for the  
Secure and Trusted Communications Networks  
Reimbursement Program, 48521–48537

**PROPOSED RULES**

Review of the Commission's Broadcast and Cable Equal  
Employment Opportunity Rules and Policies, 48610–  
48617

**NOTICES**

Agency Information Collection Activities; Proposals,  
Submissions, and Approvals, 48702  
Meetings:  
Communications Security, Reliability, and  
Interoperability Council, 48702–48703

**Federal Emergency Management Agency****RULES**

National Flood Insurance Program:  
Conforming Changes to Reflect the Biggert-Waters Flood  
Insurance Reform Act and the Homeowners Flood  
Insurance Affordability Act, and Additional  
Clarifications for Plain Language; Correction, 48511

**Federal Energy Regulatory Commission****NOTICES**

Application and Establishing Intervention Deadline:  
Texas Eastern Transmission, LP, 48672–48673  
Combined Filings, 48673–48675  
Filing:  
City and County of San Francisco, 48671–48672  
Louisiana Public Service Commission v. Entergy Corp.,  
Entergy Services Inc., Entergy Louisiana, LLC, et al.,  
48675–48676  
Initial Market-Based Rate Filings Including Requests for  
Blanket Section 204 Authorizations:  
Lund Hill Solar, LLC, 48675

**Federal Motor Carrier Safety Administration****NOTICES**

Qualification of Drivers; Exemption Applications:  
Epilepsy and Seizure Disorders, 48797–48798  
Hearing, 48794–48797

**Federal Railroad Administration****NOTICES**

Funding Opportunity for Consolidated Rail Infrastructure  
and Safety Improvements, 48798–48812

**Federal Reserve System****NOTICES**

Formations of, Acquisitions by, and Mergers of Bank  
Holding Companies, 48703

**Fish and Wildlife Service****RULES**

2021–2022 Station-Specific Hunting and Sport Fishing  
Regulations, 48822–48883  
Endangered and Threatened Species:  
Threatened Species Status for Bartram's Stonecrop with a  
Section 4(d) Rule, 48545–48569  
Migratory Bird Hunting:  
2021–2022 Seasons for Certain Migratory Game Birds,  
48569–48608

**PROPOSED RULES**

Endangered and Threatened Species:  
Threatened Status with Section 4(d) Rule for the Dolphin  
and Union Caribou and 12-month Finding for the  
Peary Caribou, 48619–48649  
Migratory Bird Hunting:  
Proposed 2022–23 Migratory Game Bird Hunting  
Regulations (Preliminary) With Requests for Indian  
Tribal Proposals; Notification of Meetings, 48649–  
48658

**NOTICES**

Marine Mammals:  
Letters of Authorization to Take Pacific Walrus and Polar  
Bears in the Beaufort Sea, Alaska, in 2019 and 2020  
and Northern Sea Otters in Cook Inlet, Alaska in  
2019 and 2020, 48751–48753

**Food and Drug Administration****NOTICES**

Revocation of Authorization of Emergency Use of an In  
Vitro Diagnostic Device for Detection and/or Diagnosis  
of COVID–19, 48736–48737  
Revocation of Authorization of Emergency Use of Certain  
Medical Devices During COVID–19, 48712–48736

**Food and Nutrition Service****NOTICES**

Agency Information Collection Activities; Proposals,  
Submissions, and Approvals:  
Annual State Report on Verification of Supplemental  
Nutrition Assistance Program Participation, 48663–  
48664  
National School Lunch, Special Milk, and School Breakfast  
Programs, National Average Payments/Maximum  
Reimbursement Rates; Correction, 48660–48663

**Foreign-Trade Zones Board****NOTICES**

Reorganization of Foreign-Trade Zone 210 under  
Alternative Site Framework:  
St. Clair County, Michigan, 48665

**General Services Administration****PROPOSED RULES**

Acquisition Regulations:  
Extending Federal Supply Schedule Orders Beyond the  
Contract Term, 48617–48619

**Health and Human Services Department**

*See* Agency for Healthcare Research and Quality  
*See* Centers for Disease Control and Prevention  
*See* Children and Families Administration  
*See* Community Living Administration



See Food and Drug Administration  
 See Health Resources and Services Administration  
 See National Institutes of Health

**NOTICES**

Statement of Organization, Functions, and Delegations of Authority:  
 Establishment of the Office of Climate Change and Health Equity, 48745–48746

**Health Resources and Services Administration****NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals:  
 Data System for Organ Procurement and Transplantation Network, 48743–48745  
 Statement of Organization, Functions, and Delegations of Authority, 48737–48743

**Homeland Security Department**

See Federal Emergency Management Agency

**Housing and Urban Development Department****NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals:  
 Local Appeals to Single-Family Mortgage Limits, 48750  
 Order of Succession for the Office of Field Policy and Management, 48750–48751  
 Redlegation of Authority for the Office of Field Policy and Management, 48748–48750

**Interior Department**

See Fish and Wildlife Service  
 See Land Management Bureau  
 See Ocean Energy Management Bureau

**NOTICES**

Privacy Act; System of Records, 48753–48758

**International Trade Administration****NOTICES**

Antidumping or Countervailing Duty Investigations, Orders, or Reviews:  
 Drawn Stainless Steel Sinks from the People's Republic of China, 48666–48668  
 Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof from the People's Republic of China, 48665–48666  
 Export Trade Certificate of Review, 48668–48669

**Judicial Conference of the United States****NOTICES**

Meetings:  
 Advisory Committee on Appellate Rules, 48767  
 Advisory Committee on Bankruptcy Rules, 48767  
 Advisory Committee on Civil Rules, 48767

**Labor Department**

See Employee Benefits Security Administration  
 See Mine Safety and Health Administration

**Land Management Bureau****NOTICES**

Clarification:  
 Use of Truck-mounted Coriolis Meters, 48759–48760  
 Plats of Survey:  
 Alaska, 48762–48763  
 Arizona, 48760–48762

Temporary Closure of Public Lands:  
 2021 Rise Lantern Festival, Clark County, NV, 48758–48759

**Mine Safety and Health Administration****NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals:  
 Safety Standards for Roof Bolts in Metal and Nonmetal Mines and Underground Coal Mines, 48768–48769

**National Highway Traffic Safety Administration****RULES**

Federal Motor Vehicle Safety Standards:  
 Technical Corrections and Clarifications Related to Tires and Rims, 48539–48545

**NOTICES**

Denial of Petition for Decision of Inconsequential Noncompliance:  
 General Motors, LLC, 48812–48814

**National Institutes of Health****NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals:  
 Evaluation of Office of Acquisitions System and FFRDC Contract Administration System Vendor Portals  
 National Cancer Institute, 48746–48747  
 Meetings:  
 Center for Scientific Review, 48748  
 National Center for Advancing Translational Sciences, 48746  
 National Human Genome Research Institute, 48747–48748  
 National Institute of Environmental Health Sciences, 48747

**National Oceanic and Atmospheric Administration****RULES**

Fisheries of the Northeastern United States:  
 Atlantic Mackerel, Squid, and Butterfish Fishery; 2021 Illex Squid Quota Harvested, 48608–48609  
 Northeast Skate Complex; Rescission of Control Dates, 48608

**NOTICES**

Meetings:  
 Mid-Atlantic Fishery Management Council, 48669  
 North Pacific Fishery Management Council;  
 Webconference, 48669–48670

**National Science Foundation****NOTICES**

Permit Applications Received under the Antarctic Conservation Act, 48769–48770

**Ocean Energy Management Bureau****NOTICES**

Environmental Impact Statements; Availability, etc.:  
 Proposed Sunrise Wind Farm Project on the Northeast Atlantic Outer Continental Shelf, 48763–48767

**Postal Regulatory Commission****RULES**

Reorganization of Postal Regulatory Commission Rules; Correction, 48503–48504

**Presidential Documents****PROCLAMATIONS**

## Special Observances:

Afghanistan; Honoring the Victims of the Attack in Kabul  
(Proc. 10240), 48481

Women's Equality Day (Proc. 10239), 48479–48480

**Securities and Exchange Commission****NOTICES**

Agency Information Collection Activities; Proposals,  
Submissions, and Approvals, 48779–48782, 48785–  
48789

Self-Regulatory Organizations; Proposed Rule Changes:

BOX Exchange, LLC, 48775–48778

Depository Trust Co., 48770

Fixed Income Clearing Corp., 48770–48775, 48781

ICE Clear Credit, LLC, 48778–48779

Long-Term Stock Exchange, Inc., 48782–48785

Nasdaq PHLX, LLC, 48789–48792

National Securities Clearing Corp., 48787

The Nasdaq Stock Market, LLC, 48780–48781

**Small Business Administration****NOTICES**

Disaster Declaration:

California, 48793

Major Disaster Declaration:

California, 48792–48793

Tennessee, 48792

**State Department****NOTICES**

Culturally Significant Object Being Imported for Exhibition:

By Her Hand: Artemisia Gentileschi and Woman Artists  
in Italy, 1500–1800, 48793

**Transportation Department**

See Federal Aviation Administration

See Federal Motor Carrier Safety Administration

See Federal Railroad Administration

See National Highway Traffic Safety Administration

**Treasury Department**

See United States Mint

**NOTICES**

Request for Information:

Federal Insurance Office Request for Information on the  
Insurance Sector and Climate-Related Financial  
Risks, 48814–48819

**United States Mint****NOTICES**

2021 Pricing of Numismatic Gold, Commemorative Gold,  
Platinum, and Palladium Products Grid, 48819

**Veterans Affairs Department****NOTICES**

Agency Information Collection Activities; Proposals,  
Submissions, and Approvals:

Election to Waive, Retain, or Re-Elect Due Process Rights  
if in Receipt of Concurrent Active Duty Service Pay  
and Disability Compensation Pay, 48819–48820

**Western Area Power Administration****NOTICES**

Rate Order:

Colorado River Storage Project Management Center,  
48676–48678

Loveland Area Projects and Western Area Colorado  
Missouri Balancing Authority, 48678–48684

Loveland Area Projects, Western Area Colorado Missouri  
Balancing Authority, and Colorado River Storage  
Project, 48684–48691

**Separate Parts In This Issue****Part II**

Interior Department, Fish and Wildlife Service, 48822–  
48883

**Reader Aids**

Consult the Reader Aids section at the end of this issue for  
phone numbers, online resources, finding aids, and notice  
of recently enacted public laws.

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**CFR PARTS AFFECTED IN THIS ISSUE**

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

**3 CFR****Proclamations:**

10239.....48479  
10240.....48481

**14 CFR**

39 (4 documents) .....48483,  
48485, 48488, 48490  
71 (4 documents) .....48493,  
48494, 48495, 48496  
97 (2 documents) .....48497,  
48502

**Proposed Rules:**

71.....48610

**39 CFR**

3011.....48503

**40 CFR**

52.....48504  
180.....48507

**44 CFR**

59.....48511  
61.....48511  
62.....48511

**47 CFR**

0.....48511  
54.....48521  
64.....48511  
73 (2 documents) .....48537,  
48538

**Proposed Rules:**

73.....48610  
76.....48610

**48 CFR****Proposed Rules:**

517.....48617  
538.....48617  
552.....48617

**49 CFR**

571.....48539

**50 CFR**

17.....48545  
20.....48569  
32.....48822  
71.....48822  
648 (2 documents) .....48608

**Proposed Rules:**

17.....48619  
20.....48649

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# Presidential Documents

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Title 3—

Proclamation 10239 of August 26, 2021

The President

Women's Equality Day, 2021

By the President of the United States of America

## A Proclamation

Today, we celebrate Women's Equality Day, a reminder not only of the progress women have won through the years, but of the important work that remains to be done. One hundred and one years ago, the ratification of the 19th Amendment moved our Nation one essential step closer to fulfilling its foundational promise—establishing at long last that no American's right to vote could be denied or abridged on the basis of gender. As we reflect on the decades-long effort to win the fight for universal suffrage, we also remember the women of color who helped lead the movement to ratify the 19th Amendment, whose own rights would still be denied for years to come despite their hard-earned victory. We celebrate their extraordinary courage and resolve, and rededicate ourselves to the work we still have ahead of us to protect voting rights across our country.

When the 19th Amendment was ratified, millions of women across the country could finally make their voices heard at the ballot box. But even with its ratification, millions were denied those rights by law or by practice through poll taxes, literacy tests, and campaigns of violence and terror that targeted voters of color. It took another 45 years before the Voting Rights Act secured the voting rights of millions of Americans of color, and an additional 10 years before voting protections would reflect the many languages Americans speak.

Through these measures and others, our country has taken major strides to strengthen voting rights and expand access to make it easier for Americans to exercise their sacred right to vote. These victories have been especially vital for women, who often face increased caregiving demands and take on a disproportionate amount of low-wage and inflexible work—making it harder to take time off to vote in-person or wait out longer lines at the polls. Women are also disproportionately impacted by voter ID laws—especially married women who change their names, or those whose IDs do not accurately reflect their gender.

Efforts to improve voting access have paid off; in 2020, we witnessed the greatest number of votes ever cast in American history. And one barrier that had stood for more than two centuries was finally dismantled with the inauguration of America's first woman Vice President, Kamala Harris.

But the struggle to ensure that every American is able to exercise their right to vote continues, especially for women of color. In the years prior to the 2020 election and in the months since, we have seen a wave of shameless attacks on voting—burdening a constitutional right with obstacles that overwhelmingly impact voters of color, low-income communities, and people with disabilities. These tactics are nothing new. But they are an affront to our most cherished values and rights as a Nation.

As I have said before, some things in America should be simple and straightforward. Perhaps the most important—the most fundamental—is the right to vote and to vote freely. With it, anything is possible. Without it, nothing is.

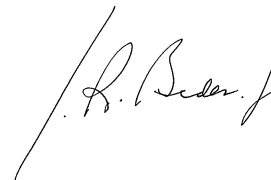
My Administration is committed to bearing out the promise of the suffragists, who understood that for women to attain true equality in our country, they must have an equal place at the ballot box. As the Vice President has said, the status of women is the status of democracy. This is true abroad, too, where we are committed to strengthening women's political participation and leadership around the world.

In fulfillment of my Administration's commitment to equality for all, we are focused not only on the sacred right to vote, but on making sure that all Americans have the opportunity to fully participate in our society. It is long past time we pass the Equal Rights Amendment, to enshrine the principle of gender equality in our Constitution, because no one's rights should be denied on account of sex. On Women's Equality Day, we recognize the unique challenges and barriers women face, and the rights that need defending and strengthening. These rights include a woman's constitutional right to reproductive freedom and access to health care, regardless of zip code or income—and the right of every woman and girl to live free from violence, whether online, in the home, at school, or in the workplace. To ensure that women are treated fairly in our economy and in the workforce, we are also committed to fighting for pay equity, combating discrimination in the workplace, and passing family-friendly policies that help women and all of us manage caregiving and career responsibilities.

Today, as we celebrate Women's Equality Day, we recognize the pioneers whose fight for suffrage paved the way for future generations of leaders—and we recognize our duty to continue that fight to ensure that our daughters can enjoy the same rights and opportunities as our sons. Let us honor the efforts of trailblazers and barrier-breakers with meaningful action to promote gender equality and make exercising the right to vote more equitable and accessible for all.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim August 26, 2021, as Women's Equality Day. I call upon the people of the United States to celebrate and continue to build on our country's progress towards gender equality, and to defend and strengthen the right to vote.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-sixth day of August, in the year of our Lord two thousand twenty-one, and of the Independence of the United States of America the two hundred and forty-sixth.



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## Presidential Documents

Proclamation 10240 of August 26, 2021

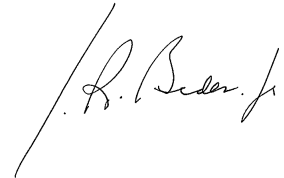
### Honoring the Victims of the Attack in Kabul, Afghanistan

By the President of the United States of America

#### A Proclamation

As a mark of respect for the U.S. service members and other victims killed in the terrorist attack on August 26, 2021, in Kabul, Afghanistan, by the authority vested in me as President of the United States by the Constitution and the laws of the United States of America, I hereby order that the flag of the United States shall be flown at half-staff at the White House and upon all public buildings and grounds, at all military posts and naval stations, and on all naval vessels of the Federal Government in the District of Columbia and throughout the United States and its Territories and possessions until sunset, August 30, 2021. I also direct that the flag shall be flown at half-staff for the same length of time at all United States embassies, legations, consular offices, and other facilities abroad, including all military facilities and naval vessels and stations.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-sixth day of August, in the year of our Lord two thousand twenty-one, and of the Independence of the United States of America the two hundred and forty-sixth.



# Rules and Regulations

Federal Register

Vol. 86, No. 166

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2021-0376; Project Identifier AD-2021-00062-T; Amendment 39-21689; AD 2021-17-06]

RIN 2120-AA64

#### Airworthiness Directives; The Boeing Company Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for all The Boeing Company Model 747-100, -100B, -100B SUD, -200B, -200C, -200F, -300, -400, -400D, -400F, 747SR, and 747SP airplanes. This AD was prompted by reports of cracks found in the front spar shear tie and at the intercostal lug fitting at certain locations. This AD requires repetitive detailed and surface high frequency eddy current (HFEC) inspections of the front spar shear tie and intercostal lug fitting at certain locations for any cracking, and applicable on-condition actions. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective October 5, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 5, 2021.

**ADDRESSES:** For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister Blvd., MC 110-SK57, Seal Beach, CA 90740-5600;

telephone 562-797-1717; internet <https://www.myboeingfleet.com>. You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. It is also available at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0376.

#### Examining the AD Docket

You may examine the AD docket at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0376; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Stefanie Roesli, Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206-231-3964; email: [Stefanie.N.Roesli@faa.gov](mailto:Stefanie.N.Roesli@faa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all The Boeing Company Model 747-100, -100B, -100B SUD, -200B, -200C, -200F, -300, -400, -400D, -400F, 747SR, and 747SP airplanes. The NPRM published in the **Federal Register** on June 7, 2021 (86 FR 30216). The NPRM was prompted by reports of cracks found in the front spar shear tie and at the intercostal lug fitting at certain locations. In the NPRM, the FAA proposed to require repetitive detailed and surface HFEC inspections of the front spar shear tie and intercostal lug fitting at certain locations for any cracking, and applicable on-condition actions. The FAA is issuing this AD to

address any cracking in these areas that could result in the loss of limit load capability in a principal structural element, the potential inability to restrain the cargo for certain cargo configurations, and the potential for a center fuel tank rupture for certain cargo configurations under limit load conditions, which could adversely affect the structural integrity of the airplane.

#### Discussion of Final Airworthiness Directive

##### Comments

The FAA received a comment from Boeing who supported the NPRM without change.

##### Conclusion

The FAA reviewed the relevant data, considered the comment received, and determined that air safety requires adopting this AD as proposed. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

#### Related Service Information Under 14 CFR Part 51

The FAA reviewed Boeing Alert Requirements Bulletin 747-53A2904 RB, dated December 16, 2020. This service information specifies procedures for repetitive detailed and surface HFEC inspections of the station 1000 front spar shear tie at the left and right side buttock line (BL) 11.33, BL 33.99, BL 57.50, and BL 75.92, and of the intercostal lug fitting at the left and right side BL 11.33, for any cracking, and applicable on-condition actions. On-condition actions include repair, installing a new front spar shear tie, and installing a new intercostal lug fitting. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in **ADDRESSES**.

#### Costs of Compliance

The FAA estimates that this AD will affect 117 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspections .....	Up to 314 work-hours × \$85 per hour = Up to \$26,690.	\$0	Up to \$26,690 .....	Up to \$3,122,730.

The FAA estimates the following costs to do any necessary installations and repairs that would be required

based on the results of the inspection. The agency has no way of determining

the number of aircraft that might need these installations and repairs:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Installations .....	Up to 368 work-hour × \$85 per hour = Up to \$31,280.	Up to \$38,446 (for shear ties and intercostal lug fittings).	Up to \$69,726.

The FAA has received no definitive data on which to base the cost estimates for the repairs specified in this AD.

**Authority for This Rulemaking**

Title 49 of the United States Code specifies the FAA’s authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency’s authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

**Regulatory Findings**

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

- (1) Is not a “significant regulatory action” under Executive Order 12866,
- (2) Will not affect intrastate aviation in Alaska, and
- (3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities

under the criteria of the Regulatory Flexibility Act.

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

**The Amendment**

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

**PART 39—AIRWORTHINESS DIRECTIVES**

- 1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

**§ 39.13 [Amended]**

- 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

**2021–17–06 The Boeing Company:**  
Amendment 39–21689; Docket No. FAA–2021–0376; Project Identifier AD–2021–00062–T.

**(a) Effective Date**

This airworthiness directive (AD) is effective October 5, 2021.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to all The Boeing Company Model 747–100, –100B, –100B SUD, –200B, –200C, –200F, –300, –400, –400D, –400F, 747SR, and 747SP airplanes, certificated in any category.

**(d) Subject**

Air Transport Association (ATA) of America Code 53, Fuselage.

**(e) Unsafe Condition**

This AD was prompted by reports of cracks in the station (STA) 1000 front spar shear tie

at the left and right side buttock line (BL) 11.33, BL 33.99, BL 57.50, and BL 75.92, and in the intercostal lug fitting at the left and right side BL 11.33. The FAA is issuing this AD to address any cracking in these areas that could result in the loss of limit load capability in a principal structural element, the potential inability to restrain the cargo for certain cargo configurations, and the potential for a center fuel tank rupture for certain cargo configurations under limit load conditions, which could adversely affect the structural integrity of the airplane.

**(f) Compliance**

Comply with this AD within the compliance times specified, unless already done.

**(g) Required Actions**

Except as specified by paragraph (h) of this AD: At the applicable times specified in the “Compliance” paragraph of Boeing Alert Requirements Bulletin 747–53A2904 RB, dated December 16, 2020, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin 747–53A2904 RB, dated December 16, 2020.

**NOTE 1 TO PARAGRAPH (G):** Guidance for accomplishing the actions required by this AD can be found in Boeing Alert Service Bulletin 747–53A2904, dated December 16, 2020, which is referred to in Boeing Alert Requirements Bulletin 747–53A2904 RB, dated December 16, 2020.

**(h) Exceptions to Service Information Specifications**

(1) Where Boeing Alert Requirements Bulletin 747–53A2904 RB, dated December 16, 2020, uses the phrase “the original issue date of Requirements Bulletin 747–53A2904 RB,” this AD requires using “the effective date of this AD.”

(2) Where Boeing Alert Requirements Bulletin 747–53A2904 RB, dated December 16, 2020, specifies contacting Boeing for repair instructions: This AD requires doing the repair using a method approved in accordance with the procedures specified in paragraph (i) of this AD.



**(i) Alternative Methods of Compliance (AMOCs)**

(1) The Manager, Seattle ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in Related Information. Information may be emailed to: [9-ANM-Seattle-ACO-AMOC-Requests@faa.gov](mailto:9-ANM-Seattle-ACO-AMOC-Requests@faa.gov).

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by The Boeing Company Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO Branch, FAA, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

**(j) Related Information**

(1) For more information about this AD, contact Stefanie Roesli, Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206-231-3964; email: [Stefanie.N.Roesli@faa.gov](mailto:Stefanie.N.Roesli@faa.gov).

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (k)(3) and (4) of this AD.

**(k) Material Incorporated by Reference**

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Boeing Alert Requirements Bulletin 747-53A2904 RB, dated December 16, 2020.

(ii) [Reserved]

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister Blvd., MC 110-SK57, Seal Beach, CA 90740-5600; telephone 562-797-1717; internet <https://www.myboeingfleet.com>.

(4) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, [fr.inspection@nara.gov](mailto:fr.inspection@nara.gov), or go to: <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

Issued on August 7, 2021.

**Gaetano A. Sciortino,**

*Deputy Director for Strategic Initiatives, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2021-18705 Filed 8-30-21; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 39**

**[Docket No. FAA-2021-0334; Project Identifier MCAI-2020-01662-T; Amendment 39-21686; AD 2017-17-03]**

**RIN 2120-AA64**

**Airworthiness Directives; Airbus SAS Airplanes**

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Final rule.

**SUMMARY:** The FAA is superseding Airworthiness Directive (AD) 2017-12-13, which applied to certain Airbus SAS Model A320-212, -214, -232, and -233 airplanes. AD 2017-12-13 required repetitive low frequency eddy current inspections or repetitive high frequency eddy current inspections of the pocket radius at certain areas of the fuselage frame, and repair if necessary. This AD requires new repetitive inspections at the left- (LH) and right-hand (RH) sides of the fuselage skin at certain frames for any cracking, and repair if necessary, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. This AD was prompted by a report of a crack found during an inspection of the pocket radius of the fuselage frame, and a determination that similar cracks may develop in nearby areas of the fuselage frame and that additional airplanes are subject to the unsafe condition. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective October 5, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 5, 2021.

**ADDRESSES:** For material incorporated by reference (IBR) in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email [ADs@easa.europa.eu](mailto:ADs@easa.europa.eu); internet [www.easa.europa.eu](http://www.easa.europa.eu). You may find this IBR material on the EASA website at <https://ad.easa.europa.eu>. You may view this IBR material at the

FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. It is also available in the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0334.

**Examining the AD Docket**

You may examine the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0334; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Sanjay Ralhan, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206-231-3223; email [Sanjay.Ralhan@faa.gov](mailto:Sanjay.Ralhan@faa.gov).

**SUPPLEMENTARY INFORMATION:****Background**

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020-0280, dated December 14, 2020 (EASA AD 2020-0280) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for certain Airbus SAS Model A318-111, -112 and -122 airplanes; Model A319-111, -112, -113, -114, -115, -131, -132, and -133 airplanes; and Model A320-211, -212, -214, -231, -232, and -233 airplanes. EASA AD 2020-0280 supersedes EASA AD 2014-0278, dated December 19, 2014 (which corresponds to FAA AD 2017-12-13, Amendment 39-18928 (82 FR 27983, June 20, 2017) (AD 2017-12-13)).

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2017-12-13. AD 2017-12-13 applied to certain Airbus SAS Model A320-212, -214, -232, and -233 airplanes. The NPRM published in the **Federal Register** on April 22, 2021 (86 FR 21228). The NPRM was prompted by a report of a crack found during an inspection of the pocket radius of the fuselage frame, and a determination that similar cracks may

develop in nearby areas of the fuselage frame and that additional airplanes are subject to the unsafe condition. The NPRM proposed to require new repetitive inspections at the LH and RH sides of the fuselage skin at certain frames for any cracking, and repair if necessary, as specified in EASA AD 2020-0280.

The FAA is issuing this AD to address cracking of the pocket radius, which could lead to in-flight decompression of the airplane and possible injury to the passengers. See the MCAI for additional background information.

**Comments**

The FAA gave the public the opportunity to participate in developing this final rule. The following presents the comments received on the NPRM and the FAA’s response to each comment.

**Support for the NPRM**

United Airlines indicated its support for the NPRM.

**Request To Use a Certain Approval Forms**

Delta Air Lines (DAL) requested that paragraph (h)(3) of the proposed AD reference both the Repair and Design Approval Form (RDAF) and the Airbus Repair Design Approval Sheet (RDAS).

DAL stated that Airbus has entered into service the RDAF which supersedes the RDAS. DAL commented that if the proposed AD does not reflect this change, operators may be required to obtain an alternative method of compliance (AMOC) in order to use the RDAF to comply with the requirements specified in paragraph (h)(3) of the proposed AD.

The FAA disagrees with the commenter’s request. The exception in paragraph (h)(3) removes any need to reference the RDAS or the RDAF. Instead, the specific reference to a specific repair instructions document is replaced with repair instructions approved, and within the compliance time specified in the repair approval, using a method approved by the Manager, Large Aircraft Section, International Validation Branch, FAA; or EASA; or Airbus SAS’s EASA Design Organization Approval (DOA). The RDAS and the RDAF are within the provision to use a method approved by Airbus SAS’s EASA DOA. The FAA has not changed this AD in this regard.

**Conclusion**

The FAA reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this final rule as proposed, except for minor

editorial changes. The FAA has determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM for addressing the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

**Related Service Information Under 1 CFR Part 51**

EASA AD 2020-0280 describes procedures for doing repetitive external general visual inspections or special detailed inspections (i.e., phased array ultrasonic technology inspections of the external skin, or detailed inspections for primer/paint cracks and high frequency eddy current inspections of the internal skin) at the LH and RH sides of the fuselage skin, above stringer 6 from FR35 to FR47, for any cracking, and repair if necessary. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the ADDRESSES section.

**Costs of Compliance**

The FAA estimates that this AD affects 439 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

**ESTIMATED COSTS FOR REQUIRED ACTIONS**

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Retained actions from AD 2017-12-13 Repetitive inspections (new actions) .....	3 work-hours × \$85 per hour = \$255 ..... Up to 30 work-hours × \$85 per hour = Up to \$2,550.	\$0 0	\$255 ..... Up to \$2,550 .....	\$111,945. Up to \$1,119,450.

The FAA has received no definitive data on which to base the cost estimates for the repairs specified in this AD.

**Authority for This Rulemaking**

Title 49 of the United States Code specifies the FAA’s authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency’s authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce.

This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

**Regulatory Findings**

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

- (1) Is not a “significant regulatory action” under Executive Order 12866,
- (2) Will not affect intrastate aviation in Alaska, and
- (3) Will not have a significant economic impact, positive or negative,

on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

**Adoption of the Amendment**

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

**PART 39—AIRWORTHINESS DIRECTIVES**

- 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

**§ 39.13 [Amended]**

- 2. The FAA amends § 39.13 by:

- a. Removing Airworthiness Directive (AD) 2017–12–13, Amendment 39–18928 (82 FR 27983, June 20, 2017); and
- b. Adding the following new AD:

**2017–17–03 Airbus SAS:** Amendment 39–21686; Docket No. FAA–2021–0334; Project Identifier MCAI–2020–01662–T.

**(a) Effective Date**

This airworthiness directive (AD) is effective October 5, 2021.

**(b) Affected ADs**

This AD replaces AD 2017–12–13, Amendment 39–18928 (82 FR 27983, June 20, 2017).

**(c) Applicability**

This AD applies to Airbus SAS airplanes specified in paragraphs (c)(1) through (3) of this AD, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2020–0280, dated December 14, 2020 (EASA AD 2020–0280).

(1) Model A318–111, –112 and –122 airplanes.

(2) Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes.

(3) Model A320–211, –212, –214, –231, –232, and –233 airplanes.

**(d) Subject**

Air Transport Association (ATA) of America Code 53, Fuselage.

**(e) Reason**

This AD was prompted by a report of a crack found during an inspection of the pocket radius of the fuselage frame, and a determination that similar cracks may develop in nearby areas of the fuselage frame and that additional airplanes are subject to the unsafe condition. The FAA is issuing this AD to address cracking of the pocket radius, which could lead to in-flight decompression of the airplane and possible injury to the passengers.

**(f) Compliance**

Comply with this AD within the compliance times specified, unless already done.

**(g) Requirements**

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2020–0280.

**(h) Exceptions to EASA AD 2020–0280**

(1) Where EASA AD 2020–0280 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where paragraph (9) of EASA AD 2020–0280 specifies if any crack is found during any inspection to “contact Airbus for approved repair instructions and accomplish those instructions accordingly,” this AD requires if any cracking is found, the cracking must be repaired before further flight using a method approved by the Manager, Large Aircraft Section, International Validation Branch, FAA; or EASA; or Airbus SAS’s

EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) Where paragraph (10) of EASA AD 2020–0280 specifies credit for actions “in accordance with the instructions of an Airbus Repair Design Approval Sheet (RDAS), [and to] accomplish the next inspection of each repaired area in accordance with the instructions of, and within the compliance time as specified in, the applicable RDAS,” this AD requires using “in accordance with repair instructions approved, and within the compliance time specified in the repair approval, using a method approved by the Manager, Large Aircraft Section, International Validation Branch, FAA; or EASA; or Airbus SAS’s EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.”

(4) Where paragraph (11) of EASA AD 2020–0280 specifies terminating actions apply only if specified “in the Airbus RDAS instructions for a repaired aeroplane,” this AD requires using “in repair instructions approved using a method approved by the Manager, Large Aircraft Section, International Validation Branch, FAA; or EASA; or Airbus SAS’s EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.”

(5) The “Remarks” section of EASA AD 2020–0280 does not apply to this AD.

**(i) No Reporting Requirement**

Although the service information referenced in EASA AD 2020–0280 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

**(j) Other FAA AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Large Aircraft Section, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the Large Aircraft Section, International Validation Branch, send it to the attention of the person identified in paragraph (k) of this AD. Information may be emailed to: [9-AVS-AIR-730-AMOC@faa.gov](mailto:9-AVS-AIR-730-AMOC@faa.gov). Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, Large Aircraft Section, International Validation Branch, FAA; or EASA; or Airbus SAS’s EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* Except as required by paragraph (j)(2) of this AD, if

any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator’s maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

**(k) Related Information**

For more information about this AD, contact Sanjay Ralhan, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3223; email [Sanjay.Ralhan@faa.gov](mailto:Sanjay.Ralhan@faa.gov).

**(l) Material Incorporated by Reference**

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) European Union Aviation Safety Agency (EASA) AD 2020–0280, dated December 14, 2020.

(ii) [Reserved]

(3) For EASA AD 2020–0280, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email [ADs@easa.europa.eu](mailto:ADs@easa.europa.eu); internet [www.easa.europa.eu](http://www.easa.europa.eu). You may find this EASA AD on the EASA website at <https://ad.easa.europa.eu>.

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. This material may be found in the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA–2021–0334.

(5) You may view this material that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email [fr.inspection@nara.gov](mailto:fr.inspection@nara.gov), or go to: <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

Issued on August 4, 2021.

**Lance T. Gant,**

*Director, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2021–18702 Filed 8–30–21; 8:45 am]

**BILLING CODE 4910–13–P**

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA-2021-0128; Project Identifier MCAI-2020-01406-T; Amendment 39-21687; AD 2021-17-04]

RIN 2120-AA64

**Airworthiness Directives; Airbus SAS Airplanes**

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for certain Airbus SAS Model A321-211, -231, and -232 airplanes. This AD was prompted by a report of false drill starts found around the latch hook mounting holes of certain door frames of the fuselage due to erroneous manufacturing processes. This AD requires a one-time inspection of the area around the latch hook mounting holes of the forward and aft door frames to detect damage from false drill starts, and repair if necessary, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective October 5, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 5, 2021.

**ADDRESSES:** For material incorporated by reference (IBR) in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email [ADs@easa.europa.eu](mailto:ADs@easa.europa.eu); internet [www.easa.europa.eu](http://www.easa.europa.eu). You may find this IBR material on the EASA website at <https://ad.easa.europa.eu>. You may view this IBR material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. It is also available in the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0128.

**Examining the AD Docket**

You may examine the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0128; or in person at Docket Operations

between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:**

Sanjay Ralhan, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206-231-3223; email [Sanjay.Ralhan@faa.gov](mailto:Sanjay.Ralhan@faa.gov).

**SUPPLEMENTARY INFORMATION:****Background**

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020-0222, dated October 14, 2020 (EASA AD 2020-0222) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for certain Airbus SAS Model A321-211, -231, and -232 airplanes.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus SAS Model A321-211, -231, and -232 airplanes. The NPRM published in the **Federal Register** on March 8, 2021 (86 FR 13229). The NPRM was prompted by a report of false drill starts found around the latch hook mounting holes of certain door frames of the fuselage due to erroneous manufacturing processes. The NPRM proposed to require a one-time inspection of the area around the latch hook mounting holes of the forward and aft door frames to detect damage from false drill starts, and repair if necessary, as specified in EASA AD 2020-0222.

The FAA is issuing this AD to address damage from false drill starts, which could result in reduced structural integrity of the airplane. See the MCAI for additional background information.

**Comments**

The FAA gave the public the opportunity to participate in developing this final rule. The following presents the comment received on the NPRM and the FAA's response.

**Request To Add Exceptions**

Delta Air Lines (DAL) asked that the FAA add an exception to paragraph (h) of the proposed AD as follows: (1) Require inspections and corrective action, if applicable, on all airplanes having manufacturer serial numbers (MSN's) identified in the applicability,

regardless of "affected" part numbers referenced in EASA AD 2020-0222; or (2) Add a clarification that if "affected parts" are not found, no inspection is required where a frame replacement has occurred on an affected frame location, and the potential manufacturing defect has been removed because there would be a new part number designation for the spliced area and the airplane could be considered as no longer be affected.

The FAA does not agree with the commenter's request. EASA AD 2020-0222 is applicable to specific airplane MSNs, with an assertion that the current configuration continues to be installed with the part numbers that are described in EASA AD 2020-0222 as "affected part numbers." The FAA does not have any information provided by EASA that there are potential configurations that have EASA-approved modifications that are exempt from the unsafe condition. If the MSN configuration DAL referred to does not include those "affected part numbers," then there is no corresponding action for those airplanes, in accordance with the requirements in this AD. The FAA has not changed this AD in this regard.

**Conclusion**

The FAA reviewed the relevant data, considered the comment received, and determined that air safety and the public interest require adopting this final rule as proposed, except for minor editorial changes. The FAA has determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM for addressing the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

**Related Service Information Under 14 CFR Part 51**

EASA AD 2020-0222 describes procedures for a one-time detailed inspection of the area around the latch hook mounting holes of the forward and aft door frames to detect damage from false drill starts, and repair of any damage found. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

**Costs of Compliance**

The FAA estimates that this AD affects 21 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS \*

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
14 work-hours × \$85 per hour = \$1,190 .....	\$0	\$1,190	\$24,990

\* Table does not include estimated costs for reporting.

The FAA estimates that it takes about 1 work-hour per product to comply with the reporting requirement in this AD. The average labor rate is \$85 per hour. Based on these figures, the FAA

estimates the cost of reporting the inspection results on U.S. operators to be \$1,785, or \$85 per product. The FAA estimates the following costs to do any necessary on-condition

repairs that are required based on the results of any required actions. The FAA has no way of determining the number of aircraft that might need these on-condition repairs:

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
Up to 42 work-hours × \$85 per hour = Up to \$3,570 (per door) .....	\$0*	Up to \$3,570 (per door).

\* The FAA has received no definitive data on which to base the parts cost estimates for the on-condition repairs specified in this AD.

According to the manufacturer, some or all of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected operators. The FAA does not control warranty coverage for affected operators. As a result, the FAA has included all known costs in the cost estimate.

**Paperwork Reduction Act**

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. The control number for the collection of information required by this AD is 2120-0056. The paperwork cost associated with this AD has been detailed in the Costs of Compliance section of this document and includes time for reviewing instructions, as well as completing and reviewing the collection of information. Therefore, all reporting associated with this AD is mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177-1524.

**Authority for This Rulemaking**

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

**Regulatory Findings**

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

- (1) Is not a "significant regulatory action" under Executive Order 12866,
- (2) Will not affect intrastate aviation in Alaska, and
- (3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

**Adoption of the Amendment**

Accordingly, under the authority delegated to me by the Administrator,

the FAA amends 14 CFR part 39 as follows:

**PART 39—AIRWORTHINESS DIRECTIVES**

- 1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

**§ 39.13 [Amended]**

- 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

**2021-17-04 Airbus SAS:** Amendment 39-21687; Docket No. FAA-2021-0128; Project Identifier MCAI-2020-01406-T.

**(a) Effective Date**

This airworthiness directive (AD) is effective October 5, 2021.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Airbus SAS Model A321-211, -231, and -232 airplanes, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2020-0222, dated October 14, 2020 (EASA AD 2020-0222).

**(d) Subject**

Air Transport Association (ATA) of America Code 53, Fuselage.

**(e) Reason**

This AD was prompted by a report of false drill starts found around the latch hook mounting holes of certain door frames of the fuselage due to erroneous manufacturing processes. The FAA is issuing this AD to address damage from false drill starts, which could result in reduced structural integrity of the airplane.

**(f) Compliance**

Comply with this AD within the compliance times specified, unless already done.

**(g) Requirements**

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2020-0222.

**(h) Exceptions to EASA AD 2020-0222**

(1) Paragraph (3) of EASA AD 2020-0222 specifies to report inspection results to Airbus within a certain compliance time. For this AD, report inspection results at the applicable time specified in paragraph (h)(1)(i) or (ii) of this AD.

(i) If the inspection was done on or after the effective date of this AD: Submit the report within 90 days after the inspection.

(ii) If the inspection was done before the effective date of this AD: Submit the report within 90 days after the effective date of this AD.

(2) The "Remarks" section of EASA AD 2020-0222 does not apply to this AD.

**(i) Other FAA AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, Large Aircraft Section, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the Large Aircraft Section, International Validation Branch, send it to the attention of the person identified in paragraph (j) of this AD. Information may be emailed to: [9-AVS-AIR-730-AMOC@faa.gov](mailto:9-AVS-AIR-730-AMOC@faa.gov). Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer*: For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, Large Aircraft Section, International Validation Branch, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC)*: Except as required by paragraph (i)(2) of this AD, if any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(4) *Paperwork Reduction Act Burden Statement*: A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120-0056. Public reporting for this collection of information is estimated to be approximately 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. All responses to this collection of information are mandatory as required by this AD. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177-1524.

**(j) Related Information**

For more information about this AD, contact Sanjay Ralhan, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206-231-3223; email [Sanjay.Ralhan@faa.gov](mailto:Sanjay.Ralhan@faa.gov).

**(k) Material Incorporated by Reference**

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) European Union Aviation Safety Agency (EASA) AD 2020-0222, dated October 14, 2020.

(ii) [Reserved]

(3) For EASA AD 2020-0222, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email [ADs@easa.europa.eu](mailto:ADs@easa.europa.eu); internet [www.easa.europa.eu](http://www.easa.europa.eu). You may find this EASA AD on the EASA website at <https://ad.easa.europa.eu>.

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. This material may be found in the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0128.

(5) You may view this material that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email [fr.inspection@nara.gov](mailto:fr.inspection@nara.gov), or go to: <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

Issued on August 7, 2021.

**Gaetano A. Scirtino,**

*Deputy Director for Strategic Initiatives, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2021-18703 Filed 8-30-21; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 39**

**[Docket No. FAA-2021-0366; Project Identifier MCAI-2021-00080-T; Amendment 39-21685; AD 2021-17-02]**

**RIN 2120-AA64**

**Airworthiness Directives; ATR—GIE Avions de Transport Régional Airplanes**

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Final rule.

**SUMMARY:** The FAA is superseding Airworthiness Directive (AD) 2020-23-13, which applied to all ATR—GIE Avions de Transport Régional Model ATR42-200, -300, and -320 airplanes. AD 2020-23-13 required a one-time inspection for discrepancies of the wire bundles between the left- and right-hand angle of attack (AOA) probes and the crew alerting computer, and, depending on findings, applicable corrective actions. This AD continues to require the actions in AD 2020-23-13, and also requires for certain airplanes, modifying the captain stick shaker wiring, and for all airplanes, revising the existing aircraft flight manual (AFM) and applicable corresponding operational procedures to incorporate procedures for the stick pusher/shaker, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. This AD was prompted by false activation of the stall warning system due to wiring damage on the wire bundle between an AOA probe and the crew alerting computer, and the development of a wiring modification and AFM update to address the unsafe condition. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective October 5, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 5, 2021.

**ADDRESSES:** For material incorporated by reference (IBR) in this AD, contact

EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email [ADs@easa.europa.eu](mailto:ADs@easa.europa.eu); internet [www.easa.europa.eu](http://www.easa.europa.eu). You may find this IBR material on the EASA website at <https://ad.easa.europa.eu>. You may view this IBR material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. It is also available in the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0366.

**Examining the AD Docket**

You may examine the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0366; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Shahram Daneshmandi, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206-231-3220; email: [shahram.daneshmandi@faa.gov](mailto:shahram.daneshmandi@faa.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021-0024, dated January 19, 2021 (EASA AD 2021-0024) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for all ATR—GIE Avions de Transport Régional Model ATR42-200, -300, and -320 airplanes.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR

part 39 to supersede AD 2020-23-13, Amendment 39-21330 (85 FR 73407, November 18, 2020) (AD 2020-23-13). AD 2020-23-13 applied to all ATR—GIE Avions de Transport Régional Model ATR42-200, -300, and -320 airplanes. The NPRM published in the **Federal Register** on May 13, 2021 (86 FR 26195). The NPRM was prompted by false activation of the stall warning system due to wiring damage on the wire bundle between an AOA probe and the crew alerting computer, and the development of a wiring modification and AFM update to address the unsafe condition. The NPRM proposed to continue to require the actions in AD 2020-23-13, and also proposed to require for certain airplanes, modifying the captain stick shaker wiring, and for all airplanes, revising the existing AFM and applicable corresponding operational procedures to incorporate procedures for the stick pusher/shaker, as specified in EASA AD 2021-0024.

The FAA is issuing this AD to address false activation of the stall warning system, which could result in loss of control of the airplane during take-off and landing phases. See the MCAI for additional background information.

**Comments**

The FAA gave the public the opportunity to participate in developing this final rule. The FAA has considered the comment received. The Air Line Pilots Association, International (ALPA) indicated its support for the NPRM.

**Explanation of Changes to This AD**

The FAA has added paragraph (h)(7) of this AD to clarify what “discrepancies” are since the ATR Airworthiness Operators Message (AOM) referred to in EASA AD 2021-0024 does not use the word “discrepancy.”

The FAA has revised paragraph (h)(4)(ii) of this AD to clarify that, for inspections done on or before December 3, 2020, those reports must be submitted “within 30 days after December 3, 2020.” In the proposed AD, the FAA inadvertently stated that the reports were to be submitted “within 30 days

after the effective date of this AD.” However, this requirement is retained from AD 2020-23-13 and the FAA intends for the compliance time to remain the same.

**Conclusion**

The FAA reviewed the relevant data, considered the comment received, and determined that air safety and the public interest require adopting this final rule with the changes described previously and minor editorial changes. The FAA has determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM for addressing the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

The FAA also determined that these changes will not increase the economic burden on any operator or increase the scope of this final rule.

**Related Service Information Under 1 CFR Part 51**

EASA AD 2021-0024 describes procedures for a one-time detailed visual inspection of the wire bundles between the left- and right-hand AOA probes and the crew alerting computer for discrepancies (including, but not limited to, wire damage, missing or damaged conduits, and incorrect routing of wiring and conduits), and, depending on findings, applicable corrective actions. EASA AD 2021-0024 also describes procedures for modifying the captain stick shaker wiring, and amending the systems limitations section of the applicable AFM to incorporate procedures for the stick pusher/shaker. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

**Costs of Compliance**

The FAA estimates that this AD affects 26 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS \*

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Retained actions from AD 2020-23-13.	Up to 10 work-hours × \$85 per hour = Up to \$850.	\$0	Up to \$850 .....	Up to \$22,100.
New proposed actions .....	4 work-hours × \$85 per hour = \$340.	\$100	\$440 .....	\$11,440.

\* Table does not include estimated costs for reporting.



The FAA estimates that it would take about 1 work-hour per product to comply with the proposed reporting requirement in this AD. The average labor rate is \$85 per hour. Based on these figures, the FAA estimates the cost of reporting the inspection results on U.S. operators to be \$2,210, or \$85 per product.

The FAA has received no definitive data on which to base the cost estimates for the on-condition actions specified in this AD.

### Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. The control number for the collection of information required by this AD is 2120–0056. The paperwork cost associated with this AD has been detailed in the Costs of Compliance section of this document and includes time for reviewing instructions, as well as completing and reviewing the collection of information. Therefore, all reporting associated with this AD is mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177–1524.

### Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

### Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

- (1) Is not a “significant regulatory action” under Executive Order 12866,
- (2) Will not affect intrastate aviation in Alaska, and
- (3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

### Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

### PART 39—AIRWORTHINESS DIRECTIVES

- 1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

#### § 39.13 [Amended]

- 2. The FAA amends § 39.13 by:
  - a. Removing Airworthiness Directive (AD) 2020–23–13, Amendment 39–21330 (85 FR 73407, November 18, 2020); and
  - b. Adding the following new AD:

**2021–17–02 ATR—GIE Avions de Transport Régional:** Amendment 39–21685; Docket No. FAA–2021–0366; Project Identifier MCAI–2021–00080–T.

#### (a) Effective Date

This airworthiness directive (AD) is effective October 5, 2021.

#### (b) Affected ADs

This AD replaces AD 2020–23–13, Amendment 39–21330 (85 FR 73407, November 18, 2020) (AD 2020–23–13).

#### (c) Applicability

This AD applies to all ATR—GIE Avions de Transport Régional Model ATR42–200, –300, and –320 airplanes, certificated in any category.

#### (d) Subject

Air Transport Association (ATA) of America Code 31, Instruments.

#### (e) Reason

This AD was prompted by false activation of the stall warning system due to wiring damage on the wire bundle between an angle of attack (AOA) probe and the crew alerting computer, and the development of a wiring modification and aircraft flight manual (AFM) update to address the unsafe condition. The FAA is issuing this AD to address this condition, which could result in loss of control of the airplane during take-off and landing phases.

#### (f) Compliance

Comply with this AD within the compliance times specified, unless already done.

#### (g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2021–0024, dated January 19, 2021 (EASA AD 2021–0024).

#### (h) Exceptions to EASA AD 2021–0024

(1) Where EASA AD 2021–0024 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where EASA AD 2021–0024 refers to “the effective date of EASA AD 2020–0221,” this AD requires using December 3, 2020 (the effective date of AD 2020–23–13).

(3) The “Remarks” section of EASA AD 2021–0024 does not apply to this AD.

(4) Paragraph (3) of EASA AD 2021–0024 specifies to report inspection results to ATR—GIE Avions de Transport Régional within a certain compliance time. For this AD, report inspection results at the applicable time specified in paragraph (h)(4)(i) or (ii) of this AD.

(i) If the inspection was done on or after December 3, 2020 (the effective date of AD 2020–23–13): Submit the report within 30 days after the inspection.

(ii) If the inspection was done before December 3, 2020 (the effective date of AD 2020–23–13): Submit the report within 30 days after December 3, 2020.

(5) Paragraphs (5) and (6) of EASA AD 2021–0024 specify amending “the applicable AFM [aircraft flight manual] of that aeroplane by inserting the AFM change provided in Appendix 1 of this [EASA] AD,” however this AD requires amending “the existing AFM and applicable corresponding operational procedures to incorporate the limitations and procedures specified in Appendix 1 of EASA AD 2021–0024.”

(6) Where paragraphs (5) and (6) of EASA AD 2021–0024 specify to “inform all flight crews, and, thereafter, operate the aeroplane accordingly,” this AD does not require those actions as those actions are already required by existing FAA operating regulations.

(7) Where paragraph (1) of EASA AD 2021–0024 refers to “discrepancies,” for this AD discrepancies include, but are not limited to, wire damage, missing or damaged conduits, and incorrect routing of wiring and conduits.

#### (i) Other FAA AD Provisions

The following provisions also apply to this AD:



(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, Large Aircraft Section, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the Large Aircraft Section, International Validation Branch, send it to the attention of the person identified in paragraph (j) of this AD. Information may be emailed to: [9-AVS-AIR-730-AMOC@faa.gov](mailto:9-AVS-AIR-730-AMOC@faa.gov). Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer*: For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, Large Aircraft Section, International Validation Branch, FAA; or EASA; or ATR—GIE Avions de Transport Régional's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

#### (j) Related Information

For more information about this AD, contact Shahram Daneshmandi, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206-231-3220; email: [shahram.daneshmandi@faa.gov](mailto:shahram.daneshmandi@faa.gov).

#### (k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) European Union Aviation Safety Agency (EASA) AD 2021-0024, dated January 19, 2021.

(ii) [Reserved]

(3) For EASA AD 2021-0024, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email [ADs@easa.europa.eu](mailto:ADs@easa.europa.eu); internet [www.easa.europa.eu](http://www.easa.europa.eu). You may find this EASA AD on the EASA website at <https://ad.easa.europa.eu>.

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. This material may be found in the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0366.

(5) You may view this material that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email [fr.inspection@nara.gov](mailto:fr.inspection@nara.gov), or go to: <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

Issued on August 3, 2021.

**Lance T. Gant,**

*Director, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2021-18704 Filed 8-30-21; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

**[Docket No. FAA-2021-0278; Airspace Docket No. 21-ACE-10]**

**RIN 2120-AA66**

#### Amendment of Class E Airspace; Pocahontas, IA

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action amends the Class E airspace extending upward from 700 feet above the surface at Pocahontas Municipal Airport, Pocahontas, IA. This action is the result of an airspace review due to the decommissioning of the Pocahontas non-directional beacon (NDB). Additionally, the geographical coordinates of the airport are also being updated to coincide with the FAA's aeronautical database, which was inadvertently omitted in the NPRM docket.

**DATES:** Effective 0901 UTC, October 7, 2021. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

**ADDRESSES:** FAA Order 7400.11E, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at [https://www.faa.gov/air\\_traffic/publications/](https://www.faa.gov/air_traffic/publications/). For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11E at NARA, email [fr.inspections@nara.gov](mailto:fr.inspections@nara.gov) or go to <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

**FOR FURTHER INFORMATION CONTACT:** Rebecca Shelby, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222-5857.

## SUPPLEMENTARY INFORMATION:

### Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends the Class E airspace extending upward from 700 feet above the surface at Pocahontas Municipal Airport, Pocahontas, IA, to support instrument flight rule operations at this airport.

### History

The FAA published a notice of proposed rulemaking in the **Federal Register** (86 FR 24800; May 10, 2021) for Docket No. FAA-2021-0278 to amend the Class E airspace extending upward from 700 feet above the surface at Pocahontas Municipal Airport, Pocahontas, IA. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

### Changes From the NPRM

The NPRM inadvertently omitted the necessity to update the coordinates of Pocahontas Municipal Airport. That update is being made in this action.

### Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

## The Rule

This amendment to 14 CFR part 71 amends the Class E airspace extending upward from 700 feet above the surface at Pocahontas Municipal Airport, Pocahontas, IA, by removing the Pocahontas NDB and associated extension from the airspace legal description; and updates the geographic coordinates of the airport to coincide with the FAA's aeronautical database.

This action is the result of an airspace review due to the decommissioning of the Pocahontas NDB which provided navigation information for the instrument procedures at this airport.

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

## Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

## Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures," paragraph 5–6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

## Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

## Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

## PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

### § 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020, is amended as follows:

*Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.*

\* \* \* \* \*

### ACE IA E5 Pocahontas, IA [Amended]

Pocahontas Municipal Airport, IA  
(Lat. 42°44'34" N, long. 94°38'51" W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Pocahontas Municipal Airport.

Issued in Fort Worth, Texas, on August 25, 2021.

**Martin A. Skinner,**

*Manager, Operations Support Group, ATO Central Service Center.*

[FR Doc. 2021–18707 Filed 8–30–21; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA–2021–0277; Airspace Docket No. 21–AGL–19]

RIN 2120–AA66

#### Revocation of Class E Airspace; Standish, MI

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action revokes the Class E airspace extending upward from 700 feet above the surface at Standish Industrial Airport, Standish, MI. This action is the result of an airspace review caused by the closing of the Standish Industrial Airport and associated instrument procedures are no longer required.

**DATES:** Effective 0901 UTC, October 7, 2021. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA

Order 7400.11 and publication of conforming amendments.

**ADDRESSES:** FAA Order 7400.11E, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at [https://www.faa.gov/air\\_traffic/publications/](https://www.faa.gov/air_traffic/publications/). For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11E at NARA, email [fr.inspection@nara.gov](mailto:fr.inspection@nara.gov) or go to <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

#### FOR FURTHER INFORMATION CONTACT:

Rebecca Shelby, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5857.

#### SUPPLEMENTARY INFORMATION:

#### Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it revokes the Class E airspace extending upward from 700 feet above the surface at Standish Industrial Airport, Standish, MI, due to the closure of the airport and cancellation of the instrument procedures at this airport.

#### History

The FAA published a notice of proposed rulemaking in the **Federal Register** (86 FR 24792; May 10, 2021) for Docket No. FAA–2021–0277 to revoke Class E airspace extending upward from 700 feet above the surface at Standish Industrial Airport, Standish, MI. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005 of FAA

Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

#### Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the ADDRESSES section of this document. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

#### The Rule

This amendment to 14 CFR part 71 revokes the Class E airspace extending upward from 700 feet above the surface at Standish Industrial Airport, Standish, MI.

This action is the result of an airspace review due to the closing of the Standish Industrial Airport, Standish, MI, and cancellation of the instrument procedures at this airport.

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

#### Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, “Environmental Impacts: Policies and Procedures,”

paragraph 5–6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

#### Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

#### Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

#### PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

##### § 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020, is amended as follows:

*Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.*

\* \* \* \* \*

#### AGL MI E5 Standish, MI [Removed]

Issued in Fort Worth, Texas, on August 25, 2021.

**Martin A. Skinner,**  
Manager, Operations Support Group, ATO  
Central Service Center.

[FR Doc. 2021–18709 Filed 8–30–21; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA–2021–0171; Airspace  
Docket No. 21–ASO–4]

RIN 2120–AA66

#### Amendment of Class E Airspace; Tuscaloosa, AL

**AGENCY:** Federal Aviation  
Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action amends Class E airspace extending upward from 700 feet above the surface at Tuscaloosa National Airport, Tuscaloosa, AL. The

FAA is taking this action as a result of an airspace review caused by the decommissioning of the CRIMSON Very High Frequency Omnidirectional Range collocated with TACAN (VORTAC). This action also updates the name of Tuscaloosa National Airport, (formerly Tuscaloosa Municipal Airport) AL. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) in the area.

**DATES:** Effective 0901 UTC, December 2, 2021. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

**ADDRESSES:** FAA Order 7400.11E, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at [https://www.faa.gov/air\\_traffic/publications/](https://www.faa.gov/air_traffic/publications/). For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; Telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11E at NARA, email [fr.inspection@nara.gov](mailto:fr.inspection@nara.gov) or go to <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

**FOR FURTHER INFORMATION CONTACT:** John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Ave., College Park, GA 30337; Telephone (404) 305–6364.

#### SUPPLEMENTARY INFORMATION:

##### Authority for This Rulemaking

The FAA’s authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency’s authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends the Class E airspace extending upward from 700 feet above the surface in Tuscaloosa, AL, to support IFR operations in the area.

## History

The FAA published a notice of proposed rulemaking in the **Federal Register** (86 FR 33588, June 25, 2021) for Docket No. FAA–2021–0171 to amend Class E airspace extending upward from 700 feet above the surface at Tuscaloosa National Airport, Tuscaloosa, AL, due to the decommissioning of the CRIMSON VORTAC.

Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in Paragraph 6005, of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

## Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas, air traffic routes, and reporting points.

## The Rule

The FAA is amending 14 CFR part 71 by amending the Class E airspace extending upward from 700 feet above the surface at Tuscaloosa National Airport, Tuscaloosa, AL, as the CRIMSON VORTAC is being decommissioned. The Class E airspace extending upward from 700 feet above the surface is amended by increasing the radius from 7.0 miles to 9.4 miles, adding an extension 4.0 miles each side of the 117° bearing from the airport extending from the 9.4-mile radius to 11.8 miles southeast of the airport and within 2.0 miles each side of the of the 041° bearing extending from the 9.4-mile radius to 11.5 miles northeast of the airport and within 4.0 miles each side of the 296° bearing extending from the 9.4-mile radius to 10.8 miles northwest of the airport and within 2.0 miles each side of the 221° bearing extending from the 9.4-mile radius to 11.8 miles southwest of the airport. This action also updates the name of Tuscaloosa National Airport, (formerly Tuscaloosa Municipal Airport) AL.

FAA Order 7400.11, Airspace Designations and Reporting Points, is

published yearly and effective on September 15.

## Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is minimal. Since this is a routine matter that only affects air traffic procedures an air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

## Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, “Environmental Impacts: Policies and Procedures,” paragraph 5–6.5a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

## Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

## Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

### **PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS**

- 1. The authority citation for part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

#### **§ 71.1 [Amended]**

- 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020, is amended as follows:

*Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.*

\* \* \* \* \*

### **ASO AL E5 Tuscaloosa, AL [Amended]**

Tuscaloosa National Airport, AL  
(Lat. 33°13'14" N, long. 87°36'41" W)

That airspace extending upward from 700 feet above the surface within a 9.4-mile radius of Tuscaloosa National Airport and within 4.0 miles each side of the 117° bearing from the airport extending from the 9.4-mile radius to 11.8 miles southeast of the airport and within 2.0 miles each side of the of the 041° bearing extending from the 9.4-mile radius to 11.5 miles northeast of the airport and within 4.0 miles each side of the 296° bearing extending from the 9.4-mile radius to 10.8 miles northwest of the airport and within 2.0 miles each side of the 221° bearing extending from the 9.4-mile radius to 11.8 miles southwest of the airport.

Issued in College Park, Georgia, on August 26, 2021.

**Matthew N. Cathcart,**

*Manager, Airspace & Procedures Team North, Eastern Service Center, Air Traffic Organization.*

[FR Doc. 2021–18717 Filed 8–30–21; 8:45 am]

**BILLING CODE 4910–13–P**

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **14 CFR Part 71**

[Docket No. FAA–2021–0159; Airspace Docket No. 21–ACE–6]

**RIN 2120–AA66**

### **Amendment of Class E Airspace; Scott City, KS**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action amends the Class E airspace extending upward from 700 feet above the surface at Scott City Municipal Airport, Scott City, KS. This action is the result of an airspace review due to the decommissioning of the Scott City non-directional beacon (NDB). The geographical coordinates of the airport are also updated to coincide with the FAA’s aeronautical database.

**DATES:** Effective 0901 UTC, October 7, 2021. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

**ADDRESSES:** FAA Order 7400.11E, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at <https://>

[www.faa.gov/air\\_traffic/publications/](http://www.faa.gov/air_traffic/publications/). For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11E at NARA, email [fr.inspection@nara.gov](mailto:fr.inspection@nara.gov) or go to <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

#### FOR FURTHER INFORMATION CONTACT:

Rebecca Shelby, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222-5857.

#### SUPPLEMENTARY INFORMATION:

##### Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends the Class E airspace extending upward from 700 feet above the surface at Scott City Municipal Airport, Scott City, KS, to support instrument flight rule operations at this airport.

##### History

The FAA published a notice of proposed rulemaking in the **Federal Register** (86 FR 20100; April 16, 2021) for Docket No. FAA-2021-0159 to amend the Class E airspace extending upward from 700 feet above the surface at Scott City Municipal Airport, Scott City, KS. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

#### Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

#### The Rule

This amendment to 14 CFR part 71 amends the Class E airspace extending upward from 700 feet above the surface within a 6.5-mile (decreased from 6.9-mile) radius of Scott City Municipal Airport, Scott City, KS, and updates geographical coordinates of the airport to coincide with the FAA's aeronautical database.

This action is the result of an airspace review due to the decommissioning of the Scott City NDB which provided navigation information for the instrument procedures at this airport.

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

#### Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures," paragraph 5-6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and

no extraordinary circumstances exist that warrant preparation of an environmental assessment.

#### Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

#### Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

#### PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

- 1. The authority citation for part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389.

##### § 71.1 [Amended]

- 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020, is amended as follows:

*Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.*

\* \* \* \* \*

##### ACE KS E5 Scott City, KS [Amended]

Scott City Municipal Airport, KS  
(Lat. 38°28'30" N, long. 100°53'04" W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Scott City Municipal Airport.

Issued in Fort Worth, Texas, on August 25, 2021.

**Martin A. Skinner,**

*Manager, Operations Support Group, ATO Central Service Center.*

[FR Doc. 2021-18708 Filed 8-30-21; 8:45 am]

**BILLING CODE 4910-13-P**

#### DEPARTMENT OF TRANSPORTATION

#### Federal Aviation Administration

#### 14 CFR Part 97

[Docket No. 31387; Amdt. No. 3972]

#### Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This rule amends, suspends, or removes Standard Instrument

Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide for the safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

**DATES:** This rule is effective August 31, 2021. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 31, 2021.

**ADDRESSES:** Availability of matter incorporated by reference in the amendment is as follows:

#### For Examination

1. U.S. Department of Transportation, Docket Ops-M30, 1200 New Jersey Avenue SE, West Bldg., Ground Floor, Washington, DC 20590-0001;

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Information Services, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. The National Archives and Records Administration (NARA).

For information on the availability of this material at NARA, email [fr.inspection@nara.gov](mailto:fr.inspection@nara.gov) or go to: <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

#### Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center online at [nfdc.faa.gov](http://nfdc.faa.gov) to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

#### FOR FURTHER INFORMATION CONTACT:

Thomas J. Nichols, Flight Procedures and Airspace Group, Flight Technologies and Procedures Division, Flight Standards Service, Federal Aviation Administration. Mailing Address: FAA Mike Monroney Aeronautical Center, Flight Procedures

and Airspace Group, 6500 South MacArthur Blvd., Registry Bldg, 29, Room 104, Oklahoma City, OK 73169. Telephone: (405) 954-4164.

**SUPPLEMENTARY INFORMATION:** This rule amends 14 CFR part 97 by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (NFDC)/Permanent Notice to Airmen (P-NOTAM), and is incorporated by reference under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20. The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained on FAA form documents is unnecessary. This amendment provides the affected CFR sections, and specifies the SIAPs and Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

#### Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section. The material incorporated by reference describes SIAPs, Takeoff Minimums and ODPs as identified in the amendatory language for part 97 of this final rule.

#### The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP and Takeoff Minimums and ODP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP and Takeoff Minimums and ODP as modified by FDC permanent NOTAMs.

The SIAPs and Takeoff Minimums and ODPs, as modified by FDC permanent NOTAM, and contained in this amendment are based on criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been

previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for these SIAP and Takeoff Minimums and ODP amendments require making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making these SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, Navigation (air).

Issued in Washington, DC, on August 20, 2021.

#### Wade E.K. Terrell,

*Aviation Safety, Flight Standards Service Manager (A), Flight Technologies and Procedures Division.*

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, CFR part 97, is amended by amending Standard Instrument Approach Procedures and Takeoff Minimums and ODPs, effective at 0901 UTC on the dates specified, as follows:

#### PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721-44722.

■ 2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME;

§ 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV

SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

\* \* \* *Effective Upon Publication*

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
7-Oct-21	OK	Chickasha	Chickasha Muni	1/0097	6/10/21	VOR/DME-A, Amdt 1B.
7-Oct-21	AL	Muscle Shoals	Northwest Alabama Rgnl	1/0194	6/28/21	RNAV (GPS) RWY 36, Amdt 1A.
7-Oct-21	MS	Hattiesburg-Laurel	Hattiesburg-Laurel Rgnl	1/0679	8/9/21	VOR-A, Orig-A.
7-Oct-21	MS	Hattiesburg-Laurel	Hattiesburg-Laurel Rgnl	1/0682	8/9/21	ILS OR LOC RWY 18, Amdt 7C.
7-Oct-21	GA	Athens	Athens/Ben Epps	1/1376	6/30/21	RNAV (GPS) RWY 27, Amdt 1A.
7-Oct-21	FL	Tampa	Tampa Exec	1/1870	8/6/21	ILS OR LOC RWY 23, Amdt 1D.
7-Oct-21	FL	Tampa	Tampa Exec	1/1871	8/6/21	RNAV (GPS) RWY 5, Orig-D.
7-Oct-21	FL	Tampa	Tampa Exec	1/1873	8/6/21	RNAV (GPS) RWY 23, Amdt 1D.
7-Oct-21	TX	Kountze/Silsbee	Hawthorne Fld	1/1987	8/6/21	RNAV (GPS) RWY 13, Amdt 1B.
7-Oct-21	ID	Lewiston	Lewiston-Nez Perce County.	1/2034	8/6/21	RNAV (GPS) Y RWY 8, Amdt 2B.
7-Oct-21	ID	Lewiston	Lewiston-Nez Perce County.	1/2081	8/6/21	RNAV (GPS) Y RWY 26, Orig-B.
7-Oct-21	NE	O'Neill	The O'Neill Muni-John L Baker Fld.	1/2090	8/9/21	RNAV (GPS) RWY 13, Amdt 1B.
7-Oct-21	NE	O'Neill	The O'Neill Muni-John L Baker Fld.	1/2091	8/9/21	RNAV (GPS) RWY 31, Amdt 1B.
7-Oct-21	NE	O'Neill	The O'Neill Muni-John L Baker Fld.	1/2092	8/9/21	VOR RWY 13, Amdt 5D.
7-Oct-21	NE	O'Neill	The O'Neill Muni-John L Baker Fld.	1/2093	8/9/21	VOR RWY 31, Amdt 1C.
7-Oct-21	GA	St Simons Island	St Simons Island	1/2098	7/1/21	VOR RWY 4, Amdt 16A.
7-Oct-21	DE	Wilmington	New Castle	1/2126	8/12/21	RNAV (GPS) RWY 9, Orig-A.
7-Oct-21	DE	Wilmington	New Castle	1/2127	8/12/21	RNAV (GPS) RWY 19, Orig.
7-Oct-21	DE	Wilmington	New Castle	1/2128	8/12/21	RNAV (GPS) RWY 27, Orig-B.
7-Oct-21	TX	Perryton	Perryton Ochiltree County.	1/2144	8/6/21	RNAV (GPS) RWY 17, Orig-B.
7-Oct-21	WA	Hoquiam	Bowerman	1/2178	8/11/21	RNAV (GPS) RWY 6, Amdt 1B.
7-Oct-21	WA	Hoquiam	Bowerman	1/2183	8/11/21	VOR RWY 6, Amdt 15.
7-Oct-21	WA	Hoquiam	Bowerman	1/2189	8/11/21	RNAV (GPS) RWY 24, Amdt 2D.
7-Oct-21	WA	Hoquiam	Bowerman	1/2191	8/11/21	ILS OR LOC/DME RWY 24, Amdt 4B.
7-Oct-21	NJ	Princeton/Rocky Hill	Princeton	1/2432	6/28/21	RNAV (GPS) RWY 10, Amdt 2.
7-Oct-21	NJ	Princeton/Rocky Hill	Princeton	1/2433	6/28/21	VOR-A, Amdt 7C.
7-Oct-21	TX	Livingston	Livingston Muni	1/2438	8/6/21	RNAV (GPS) RWY 30, Orig-C.
7-Oct-21	DE	Wilmington	New Castle	1/2442	8/12/21	VOR RWY 9, Amdt 7A.
7-Oct-21	DE	Wilmington	New Castle	1/2446	8/12/21	VOR RWY 27, Amdt 4B.
7-Oct-21	DE	Wilmington	New Castle	1/2449	8/12/21	RNAV (GPS) RWY 1, Orig.
7-Oct-21	ME	Waterville	Waterville Robert Lafleur	1/2567	6/22/21	ILS OR LOC/DME RWY 5, Amdt 4B.
7-Oct-21	ME	Waterville	Waterville Robert Lafleur	1/2568	6/22/21	RNAV (GPS) RWY 5, Amdt 1C.
7-Oct-21	ME	Waterville	Waterville Robert Lafleur	1/2583	6/22/21	RNAV (GPS) RWY 23, Orig-A.
7-Oct-21	OH	Fostoria	Fostoria Metro	1/3275	5/24/21	RNAV (GPS) RWY 27, Amdt 1B.
7-Oct-21	OH	Fostoria	Fostoria Metro	1/3276	5/24/21	RNAV (GPS) RWY 9, Orig-A.
7-Oct-21	TX	Lancaster	Lancaster Rgnl	1/3443	5/24/21	RNAV (GPS) RWY 31, Amdt 1.
7-Oct-21	MS	Winona	Winona-Montgomery County.	1/3763	6/28/21	RNAV (GPS) RWY 21, Amdt 1A.
7-Oct-21	IL	Chicago/West Chicago	Dupage	1/3893	8/11/21	RNAV (GPS) RWY 20R, Amdt 1G.
7-Oct-21	IL	Chicago/West Chicago	Dupage	1/3896	8/11/21	RNAV (GPS) RWY 20L, Orig-D.
7-Oct-21	IL	Chicago/West Chicago	Dupage	1/3899	8/11/21	RNAV (GPS) RWY 10, Orig-E.
7-Oct-21	IL	Chicago/West Chicago	Dupage	1/3902	8/11/21	RNAV (GPS) RWY 2R, Orig-D.
7-Oct-21	SC	Charleston	Charleston AFB/Intl	1/3915	6/21/21	ILS OR LOC RWY 33, Amdt 8C.
7-Oct-21	SC	Charleston	Charleston AFB/Intl	1/3916	6/21/21	VOR/DME OR TACAN RWY 3, Amdt 14B.
7-Oct-21	SC	Charleston	Charleston AFB/Intl	1/3917	6/21/21	VOR/DME OR TACAN RWY 21, Amdt 14A.
7-Oct-21	SC	Charleston	Charleston AFB/Intl	1/3918	6/21/21	VOR/DME OR TACAN RWY 33, Amdt 13B.
7-Oct-21	SC	Charleston	Charleston AFB/Intl	1/3921	6/21/21	RNAV (GPS) Y RWY 33, Amdt 4.
7-Oct-21	SC	Charleston	Charleston AFB/Intl	1/3922	6/21/21	RNAV (GPS) Y RWY 21, Amdt 3.
7-Oct-21	SC	Charleston	Charleston AFB/Intl	1/3925	6/21/21	RNAV (GPS) Y RWY 15, Amdt 4.
7-Oct-21	SC	Charleston	Charleston AFB/Intl	1/3926	6/21/21	RNAV (GPS) Y RWY 3, Amdt 3.
7-Oct-21	IL	Chicago/West Chicago	Dupage	1/3944	8/11/21	RNAV (GPS) RWY 2L, Orig-E.
7-Oct-21	IL	Chicago/West Chicago	Dupage	1/3947	8/11/21	ILS OR LOC RWY 10, Amdt 8D.
7-Oct-21	OH	Painesville	Concord Airpark	1/4019	7/26/21	VOR OR GPS-A, Orig-B.



AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
7-Oct-21	LA	Minden	Minden	1/4429	5/24/21	RNAV (GPS) RWY 19, Orig-B.
7-Oct-21	LA	Minden	Minden	1/4430	5/24/21	RNAV (GPS) RWY 1, Orig-A.
7-Oct-21	PA	Lebanon	Keller Brothers	1/4656	6/28/21	RNAV (GPS) RWY 25, Orig-B.
7-Oct-21	IL	Greenwood/Wonder Lake.	Galt Fld	1/4665	5/24/21	RNAV (GPS)—B, Orig-A.
7-Oct-21	MN	Minneapolis	Flying Cloud	1/4877	7/8/21	RNAV (GPS) RWY 28R, Amdt 2D.
7-Oct-21	MN	Minneapolis	Flying Cloud	1/4882	7/8/21	VOR/DME RWY 36, Amdt 1A.
7-Oct-21	MN	Minneapolis	Flying Cloud	1/4897	7/8/21	RNAV (GPS) RWY 10R, Orig-B.
7-Oct-21	MN	Minneapolis	Flying Cloud	1/4899	7/8/21	RNAV (GPS) RWY 36, Amdt 2B.
7-Oct-21	MN	Minneapolis	Flying Cloud	1/4901	7/8/21	RNAV (GPS) RWY 10L, Amdt 1C.
7-Oct-21	MN	Minneapolis	Flying Cloud	1/4903	7/8/21	RNAV (GPS) RWY 28L, Amdt 2B.
7-Oct-21	MA	Stow	Minute Man Air Fld	1/4946	6/28/21	RNAV (GPS) RWY 21, Orig-D.
7-Oct-21	AR	Russellville	Russellville Rgnl	1/4970	6/2/21	RNAV (GPS) RWY 7, Orig-A.
7-Oct-21	AR	Russellville	Russellville Rgnl	1/4976	6/2/21	RNAV (GPS) RWY 25, Orig-B.
7-Oct-21	AR	Russellville	Russellville Rgnl	1/4978	6/2/21	NDB—A, Amdt 4C.
7-Oct-21	OH	St Clairsville	Alderman	1/4988	6/9/21	VOR—A, Amdt 3B.
7-Oct-21	CA	Salinas	Salinas Muni	1/4994	6/4/21	LOC/DME RWY 31, Amdt 4D.
7-Oct-21	CA	Salinas	Salinas Muni	1/4995	6/4/21	RNAV (GPS) RWY 13, Orig.
7-Oct-21	CA	Salinas	Salinas Muni	1/4996	6/4/21	RNAV (GPS) Y RWY 31, Orig.
7-Oct-21	CA	Salinas	Salinas Muni	1/4997	6/4/21	VOR RWY 13, Amdt 11D.
7-Oct-21	IA	Le Mars	Le Mars Muni	1/5178	6/4/21	RNAV (GPS) RWY 18, Amdt 2.
7-Oct-21	NM	Moriarty	Moriarty Muni	1/5207	6/4/21	RNAV (GPS) RWY 26, Orig-A.
7-Oct-21	NC	Hickory	Hickory Rgnl	1/5221	7/28/21	ILS OR LOC RWY 24, Amdt 8B.
7-Oct-21	NC	Hickory	Hickory Rgnl	1/5227	7/28/21	RNAV (GPS) RWY 19, Amdt 1A.
7-Oct-21	NC	Hickory	Hickory Rgnl	1/5228	7/28/21	RNAV (GPS) RWY 24, Amdt 1B.
7-Oct-21	NC	Hickory	Hickory Rgnl	1/5229	7/28/21	RNAV (GPS) RWY 6, Amdt 1A.
7-Oct-21	WI	West Bend	West Bend Muni	1/5337	8/12/21	RNAV (GPS) RWY 6, Orig-B.
7-Oct-21	WI	West Bend	West Bend Muni	1/5340	8/12/21	RNAV (GPS) RWY 13, Orig-B.
7-Oct-21	WI	West Bend	West Bend Muni	1/5341	8/12/21	RNAV (GPS) RWY 24, Orig-B.
7-Oct-21	WI	West Bend	West Bend Muni	1/5342	8/12/21	RNAV (GPS) RWY 31, Orig-A.
7-Oct-21	WI	West Bend	West Bend Muni	1/5343	8/12/21	VOR RWY 13, Amdt 5D.
7-Oct-21	WI	West Bend	West Bend Muni	1/5348	8/12/21	VOR RWY 24, Amdt 3C.
7-Oct-21	NM	Truth Or Consequences	Truth Or Consequences Muni.	1/5430	8/9/21	VOR—A, Amdt 9D.
7-Oct-21	NM	Truth Or Consequences	Truth Or Consequences Muni.	1/5432	8/9/21	RNAV (GPS)—A, Orig-A.
7-Oct-21	MN	Appleton	Appleton Muni	1/5573	6/18/21	RNAV (GPS) RWY 13, Orig.
7-Oct-21	NY	Elmira/Corning	Elmira/Corning Rgnl	1/5629	6/28/21	RNAV (GPS) RWY 24, Amdt 2B.
7-Oct-21	NE	Auburn	Farington Fld	1/5829	6/4/21	RNAV (GPS) RWY 16, Orig.
7-Oct-21	NY	South Bethlehem	South Albany	1/5830	6/28/21	RNAV (GPS) RWY 19, Orig-A.
7-Oct-21	TX	Cleveland	Cleveland Muni	1/5838	6/2/21	RNAV (GPS) RWY 16, Orig-C.
7-Oct-21	AK	Akhiok	Akhiok	1/5888	6/4/21	RNAV (GPS)—A, Orig-B.
7-Oct-21	MS	Hattiesburg-Laurel	Hattiesburg-Laurel Rgnl	1/5966	8/9/21	RNAV (GPS) RWY 36, Amdt 1.
7-Oct-21	AR	Benton	Saline County Rgnl	1/6048	6/4/21	ILS OR LOC/DME RWY 2, Orig.
7-Oct-21	AR	Benton	Saline County Rgnl	1/6049	6/4/21	RNAV (GPS) RWY 2, Orig.
7-Oct-21	AR	Benton	Saline County Rgnl	1/6050	6/4/21	RNAV (GPS) RWY 20, Orig.
7-Oct-21	TX	Yoakum	Yoakum Muni	1/6106	8/6/21	RNAV (GPS) RWY 31, Orig-B.
7-Oct-21	MI	Grand Haven	Grand Haven Memorial Airport.	1/6205	7/13/21	RNAV (GPS) RWY 27, Orig-A.
7-Oct-21	MI	Grand Haven	Grand Haven Memorial Airport.	1/6206	7/13/21	RNAV (GPS) RWY 9, Orig-A.
7-Oct-21	NC	Star	Montgomery County	1/6254	7/28/21	RNAV (GPS) RWY 3, Orig-A.
7-Oct-21	NC	Star	Montgomery County	1/6255	7/28/21	RNAV (GPS) RWY 21, Orig-B.
7-Oct-21	TN	Nashville	Nashville Intl	1/6676	6/22/21	RNAV (RNP) Z RWY 2C, Amdt 2B.
7-Oct-21	TN	Nashville	Nashville Intl	1/6677	6/22/21	RNAV (GPS) Y RWY 2C, Amdt 2A.
7-Oct-21	TN	Nashville	Nashville Intl	1/6680	6/22/21	ILS OR LOC RWY 2C, Amdt 2A.
7-Oct-21	WV	Bluefield	Mercer County	1/6700	8/6/21	VOR RWY 23, Amdt 5C.
7-Oct-21	WV	Bluefield	Mercer County	1/6702	8/6/21	ILS OR LOC RWY 23, Amdt 15D.
7-Oct-21	GA	Carrollton	West Georgia Rgnl—O V Gray Fld.	1/6713	8/13/21	RNAV (GPS) RWY 35, Orig-A.
7-Oct-21	GA	Carrollton	West Georgia Rgnl—O V Gray Fld.	1/6714	8/13/21	RNAV (GPS) RWY 17, Orig-B.
7-Oct-21	GA	Carrollton	West Georgia Rgnl—O V Gray Fld.	1/6715	8/13/21	ILS OR LOC RWY 35, Orig-A.
7-Oct-21	CA	Ramona	Ramona	1/6728	8/13/21	RNAV GPS—B, Orig.
7-Oct-21	CA	Ramona	Ramona	1/6729	8/13/21	RNAV (GPS) RWY 9, Amdt 1A.
7-Oct-21	CA	Ramona	Ramona	1/6730	8/13/21	VOR/DME—A, Amdt 2.
7-Oct-21	TN	Jamestown	Jamestown Muni	1/6891	8/13/21	VOR—A, Amdt 2.



AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
7-Oct-21	MO	Monroe City	Cpt Ben Smith Airfield— Monroe City.	1/7023	7/1/21	RNAV (GPS) RWY 27, Orig-A.
7-Oct-21	TX	Fort Worth	Fort Worth Spinks	1/7187	5/24/21	RNAV (GPS) RWY 35L, Amdt 1A.
7-Oct-21	TX	Fort Worth	Fort Worth Spinks	1/7191	5/24/21	RNAV (GPS) RWY 17R, Amdt 1B.
7-Oct-21	TX	Fort Worth	Fort Worth Spinks	1/7192	5/24/21	ILS OR LOC RWY 35L, Amdt 2B.
7-Oct-21	ND	Minot	Minot Intl	1/7224	5/21/21	ILS OR LOC RWY 31, Amdt 10B.
7-Oct-21	ND	Minot	Minot Intl	1/7225	5/21/21	VOR RWY 31, Amdt 11A.
7-Oct-21	ND	Minot	Minot Intl	1/7226	5/21/21	LOC BC RWY 13, Amdt 8B.
7-Oct-21	ND	Minot	Minot Intl	1/7227	5/21/21	RNAV (GPS) RWY 8, Orig-B.
7-Oct-21	ND	Minot	Minot Intl	1/7228	5/21/21	RNAV (GPS) RWY 13, Amdt 1D.
7-Oct-21	ND	Minot	Minot Intl	1/7229	5/21/21	RNAV (GPS) RWY 26, Orig-A.
7-Oct-21	ND	Minot	Minot Intl	1/7231	5/21/21	RNAV (GPS) RWY 31, Amdt 1C.
7-Oct-21	ND	Minot	Minot Intl	1/7232	5/21/21	VOR RWY 8, Amdt 11A.
7-Oct-21	ND	Minot	Minot Intl	1/7233	5/21/21	VOR RWY 13, Amdt 11A.
7-Oct-21	ND	Minot	Minot Intl	1/7235	5/21/21	VOR RWY 26, Amdt 13A.
7-Oct-21	NE	Minden	Pioneer Village Fld	1/7303	8/16/21	RNAV (GPS) RWY 34, Orig-B.
7-Oct-21	MN	Montevideo	Montevideo-Chippewa County.	1/7696	5/24/21	RNAV (GPS) RWY 32, Orig-A.
7-Oct-21	MN	Montevideo	Montevideo-Chippewa County.	1/7697	5/24/21	VOR RWY 14, Amdt 5B.
7-Oct-21	MN	Montevideo	Montevideo-Chippewa County.	1/7698	5/24/21	RNAV (GPS) RWY 14, Orig-A.
7-Oct-21	MO	Perryville	Perryville Rgnl	1/7702	5/24/21	RNAV (GPS) RWY 2, Orig-B.
7-Oct-21	MO	Perryville	Perryville Rgnl	1/7703	5/24/21	VOR—A, Amdt 5A.
7-Oct-21	MO	Perryville	Perryville Rgnl	1/7704	5/24/21	RNAV (GPS) RWY 20, Orig-A.
7-Oct-21	MN	Mankato	Mankato Rgnl	1/7789	5/21/21	RNAV (GPS) RWY 15, Orig-A.
7-Oct-21	MN	Mankato	Mankato Rgnl	1/7790	5/21/21	RNAV (GPS) RWY 4, Orig-A.
7-Oct-21	MN	Mankato	Mankato Rgnl	1/7791	5/21/21	RNAV (GPS) RWY 33 Orig-A.
7-Oct-21	MN	Mankato	Mankato Rgnl	1/7792	5/21/21	RNAV (GPS) RWY 22, Orig-A.
7-Oct-21	MN	Mankato	Mankato Rgnl	1/7793	5/21/21	ILS OR LOC RWY 33, Amdt 1B.
7-Oct-21	MO	Mexico	Mexico Meml	1/8020	5/24/21	VOR/DME RWY 24, Amdt 2B.
7-Oct-21	MO	Mexico	Mexico Meml	1/8021	5/24/21	RNAV (GPS) RWY 24, Amdt 1D.
7-Oct-21	MO	Mexico	Mexico Meml	1/8022	5/24/21	RNAV (GPS) RWY 6, Amdt 1B.
7-Oct-21	MO	Mexico	Mexico Meml	1/8028	5/24/21	LOC/DME RWY 24, Amdt 1C.
7-Oct-21	TN	Jamestown	Jamestown Muni	1/8269	6/25/21	RNAV (GPS)—C, Orig.
7-Oct-21	TN	Jamestown	Jamestown Muni	1/8270	6/25/21	RNAV (GPS)—B, Orig.
7-Oct-21	TN	Jamestown	Jamestown Muni	1/8272	6/25/21	Takeoff Minimums and Obstacle DP, Orig.
7-Oct-21	GA	Swainsboro	East Georgia Rgnl	1/8280	6/25/21	RNAV (GPS) RWY 14, Amdt 1B.
7-Oct-21	GA	Swainsboro	East Georgia Rgnl	1/8281	6/25/21	ILS OR LOC/DME RWY 14, Amdt 1A.
7-Oct-21	GA	Swainsboro	East Georgia Rgnl	1/8282	6/25/21	NDB RWY 14, Amdt 2A.
7-Oct-21	GA	Swainsboro	East Georgia Rgnl	1/8283	6/25/21	RNAV (GPS) RWY 32, Amdt 2A.
7-Oct-21	MO	Kansas City	Kansas City Intl	1/8770	6/9/21	ILS OR LOC RWY 19R, ILS RWY 19R (SA CAT I), ILS RWY 19R (CAT II AND CAT III), Amdt 12.
7-Oct-21	IA	Des Moines	Des Moines Intl	1/8836	6/30/21	VOR RWY 23, Orig-B.
7-Oct-21	MN	Roseau	Roseau Muni/Rudy Billberg Fld.	1/8860	8/16/21	RNAV (GPS) RWY 34, Orig-A.
7-Oct-21	AK	Igiugig	Igiugig	1/9428	6/25/21	RNAV (GPS) RWY 23, Orig-D.
7-Oct-21	AK	Igiugig	Igiugig	1/9429	6/25/21	RNAV (GPS) RWY 5, Orig-D.
7-Oct-21	PA	Lancaster	Lancaster	1/9441	6/22/21	ILS OR LOC RWY 8, Amdt 2B.
7-Oct-21	PA	Lancaster	Lancaster	1/9442	6/22/21	RNAV (GPS) RWY 8, Amdt 3B.
7-Oct-21	PA	Lancaster	Lancaster	1/9475	6/22/21	VOR/DME RWY 31, Amdt 4C.
7-Oct-21	PA	Lancaster	Lancaster	1/9480	6/22/21	RNAV (GPS) RWY 13, Amdt 1A.
7-Oct-21	PA	Lancaster	Lancaster	1/9482	6/22/21	RNAV (GPS) RWY 31, Amdt 1B.
7-Oct-21	PA	Lancaster	Lancaster	1/9483	6/22/21	VOR/DME RWY 8, Amdt 6B.
7-Oct-21	OR	Medford	Rogue Valley Intl—Med- ford.	1/9534	5/26/21	RNAV (GPS)—D, Amdt 1A.
7-Oct-21	OR	Medford	Rogue Valley Intl—Med- ford.	1/9535	5/26/21	LOC/DME BC—B, Amdt 7.
7-Oct-21	OR	Medford	Rogue Valley Intl—Med- ford.	1/9536	5/26/21	VOR—A, Amdt 4.
7-Oct-21	OR	Medford	Rogue Valley Intl—Med- ford.	1/9537	5/26/21	VOR/DME RWY 14, Amdt 5A.
7-Oct-21	OR	Medford	Rogue Valley Intl—Med- ford.	1/9538	5/26/21	VOR/DME—C, Amdt 3A.
7-Oct-21	KS	Wichita	Cessna Acft Fld	1/9596	6/9/21	VOR—C, Amdt 1.
7-Oct-21	KS	Wichita	Cessna Acft Fld	1/9597	6/9/21	RNAV (GPS)—D, Amdt 1.

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
7-Oct-21	AK	Savoonga	Savoonga	1/9658	8/11/21	RNAV (GPS) RWY 5, Amdt 1C.
7-Oct-21	AK	Savoonga	Savoonga	1/9660	8/11/21	RNAV (GPS) RWY 23, Amdt 1D.
7-Oct-21	AK	Savoonga	Savoonga	1/9663	8/11/21	VOR RWY 23, Amdt 1B.
7-Oct-21	AK	Savoonga	Savoonga	1/9665	8/11/21	VOR/DME RWY 23, Amdt 1B.
7-Oct-21	MO	Trenton	Trenton Muni	1/9703	8/13/21	RNAV (GPS) RWY 18, Orig-B.
7-Oct-21	MO	Trenton	Trenton Muni	1/9705	8/13/21	RNAV (GPS) RWY 36, Orig-A.
7-Oct-21	MT	Havre	Havre City-County	1/9757	8/13/21	RNAV (GPS) RWY 8, Orig-B.
7-Oct-21	MT	Havre	Havre City-County	1/9758	8/13/21	RNAV (GPS) RWY 26, Orig-B.
7-Oct-21	MT	Havre	Havre City-County	1/9760	8/13/21	VOR RWY 26, Amdt 9B.
7-Oct-21	MT	Havre	Havre City-County	1/9762	8/13/21	VOR RWY 8, Amdt 7A.
7-Oct-21	MA	Hopedale	Hopedale Industrial Park	1/9888	6/28/21	RNAV (GPS)—A, Orig-B.

[FR Doc. 2021-18715 Filed 8-30-21; 8:45 am]

BILLING CODE 4910-13-P

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 97**

[Docket No. 31386; Amdt. No. 3971]

**Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This rule establishes, amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures (ODPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

**DATES:** This rule is effective August 31, 2021. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 31, 2021.

**ADDRESSES:** Availability of matters incorporated by reference in the amendment is as follows:

**For Examination**

1. U.S. Department of Transportation, Docket Ops-M30, 1200 New Jersey Avenue SE, West Bldg., Ground Floor, Washington, DC 20590-0001.

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Information Services, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email [fr.inspection@nara.gov](mailto:fr.inspection@nara.gov) or go to: <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

**Availability**

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center at [nfdc.faa.gov](http://nfdc.faa.gov) to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

**FOR FURTHER INFORMATION CONTACT:** Thomas J. Nichols, Flight Procedures and Airspace Group, Flight Technologies and Procedures Division, Flight Standards Service, Federal Aviation Administration. Mailing Address: FAA Mike Monroney Aeronautical Center, Flight Procedures and Airspace Group, 6500 South MacArthur Blvd., Registry Bldg. 29 Room 104, Oklahoma City, OK 73169. Telephone (405) 954-4164.

**SUPPLEMENTARY INFORMATION:** This rule amends 14 CFR part 97 by establishing, amending, suspending, or removes SIAPs, Takeoff Minimums and/or ODPs. The complete regulatory description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part 97.20. The applicable FAA

Forms 8260-3, 8260-4, 8260-5, 8260-15A, 8260-15B, when required by an entry on 8260-15A, and 8260-15C.

The large number of SIAPs, Takeoff Minimums and ODPs, their complex nature, and the need for a special format make publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their graphic depiction on charts printed by publishers or aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the typed of SIAPs, Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure, and the amendment number.

**Availability and Summary of Material Incorporated by Reference**

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPs, Takeoff Minimums and/or ODPs as identified in the amendatory language for part 97 of this final rule.

**The Rule**

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as amended in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flights safety relating directly to published aeronautical charts.

The circumstances that created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less

than 30 days. For the remaining SIAPs and Takeoff Minimums and ODPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### Lists of Subjects in 14 CFR part 97

Air Traffic Control, Airports, Incorporation by reference, Navigation (Air).

Issued in Washington, DC, on August 20, 2021.

**Wade E.K. Terrell,**

*Aviation Safety, Flight Standards Service, Manager (A), Flight Technologies and Procedures Division.*

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or removing Standard Instrument Approach Procedures and/or Takeoff Minimums and Obstacle Departure Procedures effective at 0901 UTC on the dates specified, as follows:

### PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

\* \* \* *Effective 7 October 2021*

Fairbanks, AK, Fairbanks Intl, Takeoff Minimums and Obstacle DP, Amdt 7  
Atlanta, GA, KATL, ILS OR LOC RWY 28, ILS RWY 28 (SA CAT I), ILS RWY 28 (CAT II), Amdt 5  
Atlanta, GA, KATL, ILS PRM RWY 28 (CLOSE PARALLEL), ILS PRM RWY 28 (CLOSE PARALLEL) (SA CAT I), ILS PRM RWY 28 (CLOSE PARALLEL) (CAT II), Amdt 5  
Lihue, HI, PHLI, RNAV (RNP) Z RWY 21, Orig-B  
Dubuque, IA, KDBQ, RNAV (GPS) RWY 18, Orig-C  
Chicago/Rockford, IL, KRFD, ILS OR LOC RWY 7, ILS RWY 7 (SA CAT I), ILS RWY 7 (CAT II), ILS RWY 7 (CAT III), Amdt 2  
Chicago/Rockford, IL, KRFD, RNAV (GPS) RWY 19, Amdt 2D  
Leonardtown, MD, 2W6, RNAV (GPS) RWY 29, Amdt 1A  
Carrabassett, ME, B21, RNAV (GPS)-A, Amdt 1  
Benton Harbor, MI, Southwest Michigan Rgnl, Takeoff Minimums and Obstacle DP, Amdt 7A  
Caledonia, MN, Houston County, Takeoff Minimums and Obstacle DP, Orig  
Fairmont, MN, KFRM, ILS OR LOC RWY 31, Amdt 1A  
Fairmont, MN, KFRM, RNAV (GPS) RWY 13, Orig-B  
International Falls, MN, Falls Intl-Einarson Field, Takeoff Minimums and Obstacle DP, Amdt 4A  
Great Falls, MT, KGTF, RNAV (RNP) Z RWY 21, Orig-E  
Watford City, ND, S25, RNAV (GPS) RWY 12, Amdt 1  
Watford City, ND, S25, RNAV (GPS) RWY 30, Amdt 1  
Albany, NY, Albany Intl, Takeoff Minimums and Obstacle DP, Amdt 14  
New York, NY, KLGA, RNAV (GPS) X RWY 22, Orig  
Gold Beach, OR, Gold Beach Municipal Airport, NELL ONE Graphic DP  
Gold Beach, OR, Gold Beach Municipal Airport, Takeoff Minimums and Obstacle DP, Orig  
La Grande, OR, La Grande/Union County, LA GRANDE ONE Graphic DP  
Coatesville, PA, KMQS, ILS OR LOC RWY 29, Amdt 8  
Coatesville, PA, KMQS, RNAV (GPS) RWY 11, Amdt 1  
Coatesville, PA, KMQS, RNAV (GPS) RWY 29, Amdt 1  
Crewe, VA, W81, RNAV (GPS)-B, Amdt 1  
Burlington, VT, KBTV, RNAV (GPS) RWY 15, AMDT 1C  
Pullman/Moscow, WA, KPUW, RNAV (GPS) Y RWY 23, Amdt 3

Jackson, WY, Jackson Hole, GEYSER SIX Graphic DP  
[FR Doc. 2021–18714 Filed 8–30–21; 8:45 am]

**BILLING CODE 4910–13–P**

### POSTAL REGULATORY COMMISSION

#### 39 CFR Part 3011

[Docket No. RM2019–13; Order No. 5407]

#### Reorganization of Postal Regulatory Commission Rules; Correction

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Correcting amendment.

**SUMMARY:** On April 20, 2020, the Postal Regulatory Commission revised Commission rules. The publication of that document incorrectly omitted a portion of a rule. This document corrects the final regulations by including the omitted portion.

**DATES:** Effective on August 31, 2021.

**FOR FURTHER INFORMATION CONTACT:** David A. Trissell, General Counsel, at 202–789–6820.

**SUPPLEMENTARY INFORMATION:** In a rule published on February 19, 2020 (85 FR 9614), effective April 20, 2020, amendatory instruction 51 for § 3011.300 revised paragraph (a) in its entirety, instead of revising paragraph (a) introductory text, which lead to paragraphs (a)(1) through (5) being omitted from the CFR. This document corrects the error by adding paragraphs (a)(1) through (5) to § 3011.300.

#### List of Subjects in 39 CFR Part 3011

Administrative practice and procedure, Confidential business information.

For the reasons set out in the preamble, 39 CFR part 3011 is corrected by making the following correcting amendment:

### PART 3011—NON-PUBLIC MATERIALS PROVIDED TO THE COMMISSION

■ 1. The authority for part 3011 continues to read as follows:

**Authority:** 39 U.S.C. 503, 504.

■ 2. Amend § 3011.300 by adding paragraphs (a)(1) through (5) to read as follows:

#### § 3011.300 Eligibility for access to non-public materials.

- (a) \* \* \*
- (1) Members of the Commission;
  - (2) Commission employees, including Public Representatives, carrying out their official responsibilities;
  - (3) Non-employees who have executed appropriate non-disclosure

agreements (such as contractors, attorneys, or subject matter experts), assisting the Commission in carrying out its duties;

(4) Reviewing courts and their staffs; and

(5) Court reporters, stenographers, or persons operating audio or video recording equipment for such court reporters or stenographers at hearings or depositions.

\* \* \* \* \*

By the Commission.

**Erica A. Barker,**

*Secretary.*

[FR Doc. 2021-18746 Filed 8-30-21; 8:45 am]

BILLING CODE 7710-FW-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R03-OAR-2020-0703; FRL-8837-02-R3]

#### Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Regional Haze State Implementation Plan for the Second Implementation Period and Reasonably Available Control Technology for Major Stationary Sources of Nitrogen Oxides; Technical Amendment

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a regional haze state implementation plan (SIP) revision submitted by the District of Columbia (“the District” or “DC”) through the Department of Energy and Environment (DOEE) on November 8, 2019, as satisfying applicable requirements under the Clean Air Act (CAA) and EPA’s Regional Haze Rule (RHR) for the program’s second implementation period. The District’s SIP submission addressed the requirement that states must periodically revise their long-term strategies for making reasonable progress towards the national goal of preventing any future, and remedying any existing, anthropogenic impairment of visibility in mandatory Class I Federal Areas, including regional haze. EPA is taking this action pursuant to sections 110 and 169A of the CAA. EPA is also correcting an error in the citations in our previous final approval of the District’s revision to the Reasonably Available Control Technology for Major Stationary

Sources of Nitrogen Oxides Rule (“DC NOx RACT rule”) according to our authority under section 110(k)(6) of the CAA.

**DATES:** This final rule is effective on September 30, 2021.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2020-0703. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Keila M. Pagán-Incle, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814-2926. Ms. Pagán-Incle can also be reached via electronic mail at [pagan-incle.keila@epa.gov](mailto:pagan-incle.keila@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On April 15, 2021, EPA published a notice of proposed rulemaking (NPRM) for the District. 86 FR 19793. The NPRM proposed approval of DC’s regional haze plan for the second implementation period (“DC DOEE 2019 Regional Haze SIP submission”), which runs through 2028.

In the 1977 CAA amendments, Congress created a program for protecting visibility in the nation’s mandatory Class I Federal areas, which include certain national parks and wilderness areas.<sup>1</sup> 42 U.S.C 7491. The CAA establishes as a national goal the “prevention of any future, and the remedying of any existing, impairment of visibility in mandatory Class I Federal areas which impairment results from manmade air pollution”,<sup>2</sup> and

<sup>1</sup> Areas statutorily designated as mandatory Class I Federal areas consist of national parks exceeding 6,000 acres, wilderness areas and national memorial parks exceeding 5,000 acres, and all international parks that were in existence on August 7, 1977. 42 U.S.C. 7472(a). There are 156 mandatory Class I areas. The list of areas to which the requirements of the visibility protection program apply is in 40 CFR part 81, subpart D.

<sup>2</sup> 42 U.S.C. 7491(a)(1).

directs EPA to promulgate regulations to assure reasonable progress toward meeting this national goal. 42 U.S.C. 7491(a)(4). On July 1, 1999, EPA promulgated the RHR, which is codified at 40 CFR 51.308.<sup>3</sup> See 64 FR 35714. Additional background and information about regional haze and the regional haze program is included in the April 15, 2021 proposal. 86 FR 19793.

To address regional haze visibility impairment, the 1999 RHR established an iterative planning process that requires states in which Class I areas are located and states “the emissions from which may reasonably be anticipated to cause or contribute to any impairment of visibility” in a Class I area to periodically submit SIP revisions to address regional haze visibility impairment. 42 U.S.C. 7491(b)(2); 40 CFR 51.308(b) and (f); see also 64 FR 35768 (July 1, 1999). Under the CAA, each SIP submission must contain “a long-term (ten to fifteen years) strategy for making reasonable progress toward meeting the national goal.” 42 U.S.C. 7491(b)(2)(B). States’ first regional haze SIP submissions were due by December 17, 2007, 40 CFR 51.308(b), with subsequent SIP submissions containing revised long-term strategies originally due July 31, 2018, and every ten years thereafter. 64 FR 35768.

On January 10, 2017, EPA promulgated revisions to the RHR that apply for the second and subsequent implementation periods. 82 FR 3078. The revisions to the regional haze program focused on the requirement that States’ SIPs contain long-term strategies for making reasonable progress towards the national visibility goal. Among other changes relative to the first period requirements, the 2017 RHR Revisions adjusted the deadline for States to submit their second-implementation-period SIP revisions from July 31, 2018 to July 31, 2021, clarified the order of analysis and the relationship between the reasonable progress goals (RPGs) and the long-term strategy, and focused on making visibility improvements on the days with the most anthropogenic visibility impairment, as opposed to the days with the most visibility impairment overall. EPA has issued several guidance documents relevant to SIP development for the second

<sup>3</sup> In addition to the generally applicable regional haze provisions at 40 CFR 51.308, EPA also promulgated regulations specific to addressing regional haze visibility impairment in Class I areas on the Colorado Plateau at 40 CFR 51.309. The latter regulations are applicable only for specific jurisdictions’ regional haze plans submitted no later than December 17, 2007, and thus are not relevant here.

implementation period, including the August 2019 “Guidance on Regional Haze State Implementation Plans for the Second Implementation Period” (“2019 Guidance”).<sup>4</sup>

Because the air pollutants and pollution affecting visibility in Class I areas can be transported over long distances, successful implementation of the regional haze program requires long-term, regional coordination among multiple jurisdictions and agencies that have responsibility for Class I areas and the emissions that impact visibility in those areas. In order to address regional haze, states need to develop strategies in coordination with one another, considering the effect of emissions from one jurisdiction on the air quality in another. Five regional planning organizations (RPOs), which include representation from state and tribal governments, EPA, and federal land managers (FLMs), were developed in the lead-up to the first implementation period to address regional haze. RPOs evaluate technical information to better understand how emissions from state and tribal land impact Class I areas across the country, pursue the development of regional strategies to reduce emissions of particulate matter and other pollutants leading to regional haze, and help states meet the consultation requirements of the RHR.

One of the five RPOs described above is the Mid-Atlantic/Northeast Visibility Union (MANE-VU). MANE-VU is a collaborative effort of state governments, tribal governments, and various Federal agencies established to initiate and coordinate activities associated with the management of regional haze, visibility, and other air quality issues in the Mid-Atlantic and Northeast corridor of the United States. The District, as well as other states and tribal governments along the Mid-Atlantic and Northeast corridor, are members of MANE-VU.

EPA published a final rule fully approving the DC regional haze SIP submission for the first implementation period on February 2, 2012 (77 FR 5191), and approved a five-year progress report as a SIP revision into the DC SIP on August 10, 2017 (82 FR 37305). On November 8, 2019, the District submitted another SIP revision, developed with the technical information from MANE-VU, to address the jurisdiction’s regional haze

obligations for the second implementation period, which runs through 2028. On April 15, 2021, EPA proposed to approve the DC DOEE 2019 Regional Haze SIP submission as meeting the applicable statutory and regulatory requirements. 86 FR 19793.

In the April 15, 2021 publication, EPA also proposed to correct an error in the citations of the regulatory provisions in a previous action—the final rule (FR) and identification of plan of the DC NO<sub>x</sub> RACT rule (February 24, 2020, 85 FR 10295)—according to our authority to make corrections to prior SIP actions under Section 110(k)(6) of the CAA. As we noted in the NPRM, the DC DOEE 2019 Regional Haze SIP submission relies in part on this rule.

## II. Summary of SIP Revision and EPA Analysis

Under the CAA and EPA’s regulations, each state, including the District, must include in its SIP a long-term (ten to fifteen years) strategy for making reasonable progress toward meeting the national goal of remedying any existing and preventing any future anthropogenic visibility impairment in Class I areas. 42 U.S.C. 7491(b)(2)(B). To this end, 40 CFR 51.308(f) lays out the process by which states determine what constitutes their long-term strategies, with the order of the requirements in 40 CFR 51.308(f)(1) through (3) generally mirroring the order of the steps in the reasonable progress analysis and (f)(4) through (6) containing additional, related requirements. In addition, the SIP submissions for the second implementation period must address the requirements in 40 CFR 51.308(g)(1) through (5) pertaining to periodic reports describing progress towards the RPGs, 40 CFR 51.308(f)(5), as well as requirements for FLM consultation that apply to all visibility protection SIPs and SIP revisions. 40 CFR 51.309(i).

As discussed in the April 15, 2021 (86 FR 19793) NPRM, in accordance with CAA sections 169A and the RHR at 40 CFR 51.308(f), on November 8, 2019, DC DOEE submitted a revision to the DC SIP to address the jurisdiction’s regional haze obligations for the second implementation period. The revision included the analyses conducted by MANE-VU and the District’s determinations based on those analyses; the District’s long-term strategy for making reasonable progress; and the District’s assessment of progress made since the first implementation period in reducing emissions of visibility impairing pollutants and the visibility improvement progress at nearby Class I areas. EPA evaluated the District’s submission against the requirements of

the CAA and RHR for the second implementation period of the regional haze program. The following is a summary of selected components of the District’s SIP submission; EPA’s full evaluation of the complete submission against all applicable regional haze requirements for the second implementation period is contained in Section IV of the April 15, 2021 NPRM.

The core component of a regional haze SIP submission is a long-term strategy that addresses regional haze in each Class I area within a state’s borders and each Class I area that may be affected by emissions from the state. The long-term strategy “must include the enforceable emissions limitations, compliance schedules, and other measures that are necessary to make reasonable progress, as determined pursuant to [40 CFR 51.308](f)(2)(i) through (iv).” 40 CFR 51.308(f)(2). The amount of progress that is “reasonable progress” is determined by applying the four statutory factors in CAA section 169A(g)(1) in an evaluation of potential control options for sources of visibility impairing pollutants, which is referred to as a “four-factor” analysis. The RHR refers to the controls identified pursuant to a four-factor analysis as “emission reduction measures,” see 40 CFR 51.308(f)(2)(i); these measures represent the level of emissions that a particular source or group of sources need to achieve to make reasonable progress towards the national visibility goal. States’ SIPs must include “enforceable emissions limitations, compliance schedules, and other measures” (*i.e.*, any compliance tools) for the emission reduction measures they have determined are necessary to make reasonable progress pursuant to four-factor analysis. 40 CFR 51.308(f)(2).

MANE-VU’s strategy, on which the District relied to satisfy its requirements for the second implementation period, included a combination of (1) measures for certain source sectors and groups of sources that the RPO determined were reasonable for states to pursue, and (2) a request for member states to conduct four-factor analyses for individual sources that it identified as contributing to visibility impairment. MANE-VU developed a set of emissions reduction measures for making reasonable progress in the five MANE-VU Class I areas. MANE-VU refers to each of the components of its overall strategy as an “Ask” of its member states. The District’s submission discussed each of the Asks and explained why or why not each is applicable and how it has complied with the relevant components of the emissions control strategy. MANE-VU has laid out for its states. A

<sup>4</sup> Guidance on Regional Haze State Implementation Plans for the Second Implementation Period. Available at: <https://www.epa.gov/visibility/guidance-regional-haze-state-implementation-plans-second-implementation-period> EPA Office of Air Quality Planning and Standards, Research Triangle Park (August 20, 2019).

detailed description about the District's response to the six MANE-VU Asks and EPA's evaluation of the District's responses and compliance with 40 CFR 51.308(f)(2)(i) can be found in Section IV. E. of the April 15, 2021 NPRM.

The NPRM also sets out at length the other requirements in the RHR that the DC DOEE 2019 Regional Haze SIP submission must meet to be approved, EPA's evaluation of the DC DOEE 2019 Regional Haze SIP submission against those requirements, and EPA's conclusion that the District has met its requirements under 40 CFR 51.308 with respect to its regional haze SIP for the second implementation period, the DC DOEE 2019 Regional Haze SIP submission. In particular, EPA evaluated these requirements, as set forth in the NPRM, including: (1) Monitoring strategy and other implementation plan requirements; (2) requirements for RPG; and (3) requirements for state and FLM coordination. These other specific requirements of the CAA and EPA's RHR, and the rationale for EPA's proposed action, are more fully explained in the NPRM and will not be restated here.

### III. EPA's Response to Comments Received

EPA received one comment supporting our proposed action in the April 15, 2021 NPRM. The comment received is in the docket for this rulemaking action. EPA received no adverse comments.

### IV. Final Action

EPA is approving the revision to the District of Columbia SIP submitted by the District through DC DOEE on November 8, 2019. EPA is approving the District's SIP submission as satisfying the regional haze requirements for the second implementation period.

### V. Incorporation by Reference

In addition, EPA is correcting errors in the regulatory citation in our February 24, 2020 (85 FR 10295) final action on the DC NO<sub>x</sub> RACT rule and is codifying this correction by revising the appropriate entries under 40 CFR 52.470 (Identification of Plan). EPA approved the District's revision to the DC NO<sub>x</sub> RACT rule (20 DCMR 805) into the SIP on February 24, 2020. 85 FR 10295. However, after we finalized the rulemaking, EPA discovered that we had erred in identifying the particular sections of the DC NO<sub>x</sub> RACT rule for incorporation by reference into the DC SIP. EPA is amending the table in paragraph (c) of 40 CFR 52.470 to correctly reflect our intended approval

of 20 DCMR sections 805.1(a), 805.1(a)(2), 805.4(a), and 805.4(b), described as follows.

EPA has made, and will continue to make, these materials generally available through <https://www.regulations.gov> and at the EPA Region III Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

Amendments to 20 District of Columbia Municipal Regulations (20 DCMR) Chapter 8, section 805.4:

a. Amending sections 805.4(a)(1) and (2) to set NO<sub>x</sub> emission limitations for any stationary combustion turbines with a heat input rating greater than fifty million (50,000,000) BTU per hour;

b. Amending section 805.4(a)(3) to set NO<sub>x</sub> emission limitations for certain stationary combustion turbines with a heat input rating less than or equal to fifty million (50,000,000) BTU per hour;

c. Amending section 805.4(a)(4) to set NO<sub>x</sub> emission limitations for certain stationary combustion turbines with a heat input rating less than or equal to ten million (10,000,000) BTU per hour;

d. Amending section 805.4(b) to replace requirements for stationary combustion turbines with an energy input capacity of one hundred million (100,000,000) BTU per hour or greater which is operated for less than five hundred (500) hours per year with testing and continuous monitoring requirements for any person required to comply with section 805.4.

These regulatory changes to section 805 were adopted on November 27, 2018, and effective on the date of publication, December 14, 2018, in the District of Columbia Register (Vol. 65, Number 51, page 013499, December 14, 2018).

### VI. Statutory and Executive Order Reviews

#### A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735,

October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);

- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

#### B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it

is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

*C. Petitions for Judicial Review*

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 1, 2021. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action.

This action pertaining to the District’s regional haze state implementation plan for the second implementation period and correction for the RACT rule for major stationary sources of NO<sub>x</sub> may

not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides.

Dated: August 11, 2021.

**Diana Esher**,  
*Acting Regional Administrator, Region III.*

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

- 1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

**Subpart J—District of Columbia**

- 2. Amend § 52.470:
  - a. In the table in paragraph (c), by revising the entry for “Section 805”; and
  - b. In the table in paragraph (e), by adding the entry “Regional Haze State Implementation Plan for the Second Implementation Period” at the end of the table.

The revision and addition read as follows:

**§ 52.470 Identification of plan.**

\* \* \* \* \*  
(c) \* \* \*

**EPA—APPROVED REGULATIONS AND STATUTES IN THE DISTRICT OF COLUMBIA**

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
*	*	*	*	*

**Chapter 8 Asbestos, Sulfur and Nitrogen Oxides**

* Section 805 .....	* Reasonably Available Control Technology for Major Stationary Sources of Nitrogen Oxides.	* 12/14/2018	* 8/31/2021, [insert <b>Federal Register</b> citation].	* Amended 805.1(a), 805.1(a)(2), and 805.4 (a) and (b). Previous approval (see the <b>Federal Register</b> of 2/24/2020) corrected to include accurate citation of amendments to DC NO <sub>x</sub> RACT rule.
*	*	*	*	*

\* \* \* \* \* (e) \* \* \*

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* Regional Haze State Implementation Plan for the Second Implementation Period.	* Statewide .....	* 11/8/2019	* 8/31/2021, [insert <b>Federal Register</b> citation].	* For the Regional Haze Second Implementation Period.

[FR Doc. 2021–17952 Filed 8–30–21; 8:45 am]  
**BILLING CODE 6560–50–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[EPA–HQ–OPP–2020–0475; FRL–8763–01–OCSP]

**Acequinocyl; Pesticide Tolerances**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes tolerances for residues of acequinocyl in or on tropical and subtropical, medium to large fruit, smooth, inedible peel subgroup 24B. The Interregional Project Number 4 (IR–4) requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA).

**DATES:** This regulation is effective August 31, 2021. Objections and requests for hearings must be received on or before November 1, 2021, and must be filed in accordance with the



instructions provided in 40 CFR part 178 (see also Unit I.C. of the SUPPLEMENTARY INFORMATION).

**ADDRESSES:** The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2020–0475, is available at <http://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805.

Due to the public health concerns relating to COVID–19, the EPA Docket Center (EPA/DC) and Reading Room is closed to visitors with limited exceptions. The staff continues to provide customer service via email, phone, and webform. For the latest status information on EPA/DC services, docket access, visit <http://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:** Marietta Echeverria, Acting Director, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: [RDFRNotices@epa.gov](mailto:RDFRNotices@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

###### A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

###### B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Publishing Office's e-

CFR site at [http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl).

###### C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2020–0475 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before November 1, 2021. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2020–0475, by one of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- **Mail:** OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- **Hand Delivery:** To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/where-send-comments-epa-dockets>.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <http://www.epa.gov/dockets>.

##### II. Summary of Petitioned-For Tolerance

In the **Federal Register** of December 21, 2020 (85 FR 82998) (FRL–10016–93), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a

pesticide petition (PP 0E8860) by IR–4, Rutgers, The State University of New Jersey, 500 College Road East, Suite 201W, Princeton, NJ 08540. The petition requested that 40 CFR 180.599 be amended by establishing a tolerance for the residue of the miticide acequinocyl [2-(acetyloxy)-3-dodecyl-1,4-naphthalenedione] and its metabolite acequinocyl-OH [2-dodecyl-3-hydroxy-1,4-naphthoquinone], expressed as acequinocyl, in or on tropical and subtropical, medium to large fruit, smooth, inedible peel subgroup 24B at 7 parts per million (ppm). That document referenced a summary of the petition prepared by IR–4, the petitioner, which is available in the docket, <http://www.regulations.gov>. There were no comments received in response to the notice of filing.

Based upon review of the data supporting the petition, EPA is establishing the tolerance for the tropical and subtropical, medium to large fruit, smooth, inedible peel subgroup 24B at 4 ppm. The reason for this change is explained in Unit IV.C.

##### III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is “safe.” Section 408(b)(2)(A)(ii) of FFDCA defines “safe” to mean that “there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.” This includes exposure through drinking water and in residential settings but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to “ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .”

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for acequinocyl including exposure resulting from the tolerance established by this action. EPA's assessment of exposures and risks associated with acequinocyl follows.



In an effort to streamline its publications in the **Federal Register**, EPA is not reprinting sections that repeat what has been previously published for tolerance rulemaking of the same pesticide chemical. Where scientific information concerning a particular chemical remains unchanged, the content of those sections would not vary between tolerance rulemaking and republishing the same sections is unnecessary. EPA considers referral back to those sections as sufficient to provide an explanation of the information EPA considered in making its safety determination for the new rulemaking.

EPA has previously published a number of tolerance rulemakings for acequinocyl, in which EPA concluded, based on the available information, that there is a reasonable certainty that no harm would result from aggregate exposure to acequinocyl and established tolerances for residues of that chemical. EPA is incorporating previously published sections from those rulemakings as described further in this rulemaking, as they remain unchanged.

**Toxicological profile.** For a discussion of the Toxicological Profile of acequinocyl, see Unit III.A. of the June 7, 2018 rulemaking (83 FR 26369) (FRL-9978-20).

**Toxicological Points of Departure/Levels of Concern.** For a summary of the Toxicological Points of Departure/Levels of Concern for acequinocyl used for human risk assessment, please reference Unit III.B. of the January 18, 2017 rulemaking (82 FR 5409) (FRL-9956-85).

**Exposure assessment.** Much of the exposure assessment remains the same although updates have occurred to accommodate exposures from the petitioned-for tolerance. These updates are discussed in this section; for a description of the rest of the EPA approach to and assumptions for the exposure assessment, please reference Unit III.C. of the June 7, 2018 rulemaking.

EPA's dietary exposure assessments have been updated to include the additional exposure from the new use of acequinocyl on the commodities in tropical and subtropical, medium to large fruit, smooth, inedible peel subgroup 24B. The assessment used the same assumptions as the June 7, 2018 final rule concerning tolerance-level residues, default processing factors for all processed commodities and 100 percent crop treated.

**Drinking water exposure.** EPA has revised the acequinocyl drinking water assessment since the June 7, 2018 rulemaking to reflect the water

solubility limits of acequinocyl and its hydroxylated degradate acequinocyl-OH (R1) due to uncertainty in the environmental fate study data. The recommended acute estimated drinking water concentration (EDWC) is 21 parts per billion (ppb) based on the water solubility limits of acequinocyl and acequinocyl-OH added together. The recommended chronic EDWC is 14 ppb, which is the maximum amount of acequinocyl residues of concern that may be present over a year. This level is based on the solubility of the degradate acequinocyl-OH (R1), which persists over the chronic exposure period.

**Non-occupational exposure.** There are no new residential (non-occupational) exposures associated with the new proposed use. The assessment of exposures to the currently registered uses on residential sites (e.g., ornamentals for landscapes, gardens, and trees) has not changed since the June 7, 2018 rulemaking.

**Cumulative exposure.** Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to acequinocyl and any other substances and acequinocyl does not appear to produce a toxic metabolite produced by other substances. For the purposes of this action, therefore, EPA has not assumed that acequinocyl has a common mechanism of toxicity with other substances.

**Safety Factor for Infants and Children.** EPA continues to conclude that there are reliable data to support the reduction of the Food Quality Protection Act (FQPA) safety factor. See Unit III.D. of the June 7, 2018 rulemaking for a discussion of the Agency's rationale for that determination.

**Aggregate Risks and Determination of Safety.** EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute population adjusted dose (aPAD) and the chronic population adjusted dose (cPAD). Short-, intermediate-, and chronic term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate points of departure to ensure that an adequate margin of exposure (MOE) exists. For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure.

Acute dietary risks are below the Agency's level of concern of 100% of the aPAD; they are 96% of the aPAD for

children 1 to 2 years old, the population subgroup with the highest exposure estimate. Chronic dietary risks are below the Agency's level of concern of 100% of the cPAD; they are 90% of the cPAD for children 1 to 2 years old, the population subgroup with the highest exposure estimate.

As explained in the June 7, 2018 rulemaking, the Agency has assumed that there will be no residential handler exposure; therefore, a residential handler assessment was not conducted. The Agency only anticipates short-term post-application dermal exposures from registered uses of acequinocyl in residential areas. Using the exposure assumptions described for short-term exposures, EPA has concluded the combined short-term food, water, and residential exposures result in aggregate MOEs of 1,800 in adults and 1,400 for children 6 to 11 years old. Because EPA's level of concern for acequinocyl is an MOE of 100 or below, these MOEs are not of concern.

As stated in the June 7, 2018 rulemaking, acequinocyl is not registered for any use patterns that would result in intermediate-term residential exposure. Because there is no intermediate-term residential exposure and chronic dietary exposure has been assessed under the appropriately protective cPAD, EPA relies on the chronic dietary risk assessment for evaluating intermediate-term risk for acequinocyl.

Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, acequinocyl is not expected to pose a cancer risk to humans.

Therefore, based on the risk assessments and information described above, EPA concludes there is reasonable certainty that no harm will result to the general population, or to infants and children, from aggregate exposure to acequinocyl residues. More detailed information can be found at <http://www.regulations.gov> in the document titled "Acequinocyl. Human Health Risk Assessment for the Proposed New Use on Tropical and Subtropical, Medium to Large Fruit, Smooth, Inedible Peel (Subgroup 24B)" in docket ID number EPA-HQ-OPP-2020-0475.

#### IV. Other Considerations

##### A. Analytical Enforcement Methodology

For a discussion of the available analytical enforcement method, see Unit IV.A. of the June 7, 2018 rulemaking.

##### B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with

international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCa section 408(b)(4).

The Codex has not established an MRL for residues of acequinocyl in/on tropical and subtropical, medium to large fruit, inedible peel, subgroup 24B.

**C. Revisions to Petitioned-For Tolerances**

FFDCA section 408(d)(4)(A)(i) permits the Agency to finalize a tolerance that varies from that sought by the petition. The petitioner initially requested a tolerance of 7 ppm for tropical and subtropical, medium to large fruit, smooth, inedible peel (crop subgroup 24B). However, upon review of the requested tolerance, the Agency noticed that the petitioner incorrectly calculated the residues for whole fruit. Whole fruit residues were calculated as the sum of residues for pulp and peel combined and did not account for total sample weight. Residue concentrations are expressed in ppm, which is equivalent to mg/kg; therefore, residues from pulp and peel cannot simply be combined together to determine whole fruit residues without accounting for total sample weight. The corrected residue concentrations for the whole fruit were approximately half of the initially calculated concentrations and produced a recommended tolerance of 4 ppm when entered into the OECD calculator.

**V. Conclusion**

Therefore, a tolerance is established for residues of acequinocyl, including its metabolites and degradates, in or on tropical and subtropical, medium to large fruit, smooth, inedible peel subgroup 24B at 4 ppm.

**VI. Statutory and Executive Order Reviews**

This action establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive

Order 12866, entitled “Regulatory Planning and Review” (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001), or to Executive Order 13045, entitled “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations” (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or Tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or Tribal Governments, on the relationship between the National Government and the States or Tribal Governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian Tribes. Thus, the Agency has determined that Executive Order 13132, entitled “Federalism” (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 2000) do not apply to this action. In

addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

**VII. Congressional Review Act**

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 180**

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides, and pests, Reporting and recordkeeping requirements.

Dated: August 18, 2021.

**Catherine Aubee,**

*Acting Director, Registration Division, Office of Pesticide Programs.*

Therefore, for the reasons stated in the preamble, EPA is amending 40 CFR chapter 1 as follows:

**PART 180—TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES IN FOOD**

■ 1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.599, amend the table in paragraph (a) by adding a table heading and in alphabetical order an entry for “Tropical and subtropical, medium to large fruit, smooth, inedible peel subgroup 24B” to read as follows:

**§ 180.599 Acequinocyl; tolerances for residues.**

(a) \* \* \*

TABLE 1 TO PARAGRAPH (a)

Commodity	Parts per million
* * * * *	*
Tropical and subtropical, medium to large fruit, smooth, inedible peel subgroup 24B .....	4
* * * * *	*

\* \* \* \* \*

[FR Doc. 2021-18716 Filed 8-30-21; 8:45 am]

BILLING CODE 6560-50-P

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**DEPARTMENT OF HOMELAND SECURITY**
**Federal Emergency Management Agency****44 CFR Parts 59, 61, and 62**

[Docket ID FEMA-2018-0026]

RIN 1660-AA95

**National Flood Insurance Program: Conforming Changes To Reflect the Biggert-Waters Flood Insurance Reform Act of 2012 (BW-12) and the Homeowners Flood Insurance Affordability Act of 2014 (HFIAA), and Additional Clarifications for Plain Language; Correction**

**AGENCY:** Federal Emergency Management Agency; DHS.

**ACTION:** Final rule; correction.

**SUMMARY:** On July 20, 2020, FEMA published in the **Federal Register** a final rule revising the National Flood Insurance Program (NFIP) regulations to codify certain provisions of the Biggert-Waters Flood Insurance Reform Act of 2012 and the Homeowner Flood Insurance Affordability Act of 2014, and to clarify certain existing NFIP rules relating to NFIP operations and the Standard Flood Insurance Policy. This final rule provides corrections to those instructions, to be used in lieu of the information published July 20.

**DATES:** This correction is effective October 1, 2021.

**ADDRESSES:** The docket for this rulemaking is available for inspection using the Federal eRulemaking Portal at <http://www.regulations.gov> and can be viewed by following that website's instructions.

**FOR FURTHER INFORMATION CONTACT:** Kelly Bronowicz, Director, Policyholder Services Division, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 400 C Street SW, Washington, DC 20472, (202) 557-9488.

**SUPPLEMENTARY INFORMATION:** In FR Doc. 2020-09260, beginning on page 43946 in the **Federal Register** of Monday, July 20, 2020, the following corrections are made:

**PART 61—INSURANCE COVERAGE AND RATES****Appendix A(1) to Part 61 [Corrected]**

- 1. On page 43961, in the first column, in Appendix A(1) to Part 61, article III.A.5.a, “(see II.B.6.a)” is corrected to read “(see II.C.6.a)”.
- 2. On page 43963, in the second column, in Appendix A(1) to Part 61, article IV.4, “(see II.B.6.c)” is corrected to read “(see II.C.6.c)”.

**Appendix A(2) to Part 61 [Corrected]**

- 3. On page 43970, in the first column, in Appendix A(2) to Part 61, article III.A.6.a, “(see II.B.6.a.)” is corrected to read “(see II.C.6.a)”.

**Appendix A(3) to Part 61 [Corrected]**

- 4. On page 43978, in the first column, in Appendix A(3) to Part 61, article III.A.6.a, “(see II.B.6.a.)” is corrected to read “(see II.C.6.a)”.

**Deanne B. Criswell,**  
*Administrator, Federal Emergency Management Agency.*

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**FEDERAL COMMUNICATIONS COMMISSION****47 CFR Parts 0 and 64**

[WC Docket Nos. 17-97 and 21-291; FCC 21-93; FR ID 45192]

**Call Authentication Trust Anchor; Appeals of the STIR/SHAKEN Governance Authority Token Revocation Decisions**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Federal Communications Commission (the Commission) adopts rules establishing a process for voice service providers aggrieved by a token revocation decision of the private STIR/SHAKEN Governance Authority to file a request for review to the Commission. Without this process the private STIR/SHAKEN Governance Authority can place other private entities out of compliance with the Commission's STIR/SHAKEN implementation rules without oversight from the Commission. The adopted rules will provide appropriate oversight and ensure due process for voice service providers aggrieved by a Governance Authority token revocation decision.

**DATES:** Effective September 30, 2021.

**FOR FURTHER INFORMATION CONTACT:** Alexander Hobbs, Attorney Advisor,

Competition Policy Division, Wireline Competition Bureau, at (202) 418-7433, or email: [Alexander.Hobbs@fcc.gov](mailto:Alexander.Hobbs@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order in WC Docket Nos. 17-97, 21-291, FCC 21-93, adopted on August 5, 2021, and released on August 6, 2021. The complete text of this document is available for download at <https://docs.fcc.gov/public/attachments/FCC-21-93A1.pdf>. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

**Synopsis****I. Introduction**

Caller ID authentication using the STIR/SHAKEN framework is a key component of our multi-pronged effort to combat the scourge of illegal robocalls. STIR/SHAKEN is a set of technological standards that helps to prevent illegal “spoofing,” a practice that involves falsifying caller ID information in order to trick unsuspecting Americans into thinking that calls are trustworthy because the caller ID information appears as if the call came from a neighbor or a familiar or reputable source. With voice service providers required by our rules to implement STIR/SHAKEN in the internet Protocol (IP) portions of their networks by June 30, 2021, Americans are now in a position to answer their phones with greater confidence that the number displayed is correct.

To guard against bad actors and preserve trust within the distributed caller ID authentication system, the ability of a voice service provider to participate in STIR/SHAKEN can be revoked by the private Governance Authority that oversees the STIR/SHAKEN framework. This revocation process effectively allows the private Governance Authority to make decisions that render voice service providers noncompliant with our rules. To provide appropriate oversight and ensure due process, today we establish a process for voice service providers to appeal such revocation decisions to the Commission.

**II. Background**

To address the issue of illegal caller ID spoofing, technologists from the internet Engineering Task Force (IETF) and the Alliance for Telecommunications Industry Solutions (ATIS) developed standards to allow for

the authentication and verification of caller ID information for calls carried over IP networks. The result of their efforts is the STIR/SHAKEN caller ID authentication framework, which allows for the caller ID information to securely travel with the call itself throughout the entire length of the call path. A key component of the STIR/SHAKEN framework is the transmission of a digital “certificate” along with the call. This certificate essentially states that the voice service provider authenticating the caller ID information is the voice service provider it claims to be, it is authorized to authenticate this information and, thus, the voice service provider’s claims about the caller ID information can be trusted. To maintain trust and accountability in the voice service providers that vouch for the caller ID information, a neutral governance system issues the certificates.

The STIR/SHAKEN governance system is comprised of several different entities fulfilling specialized roles. The Governance Authority, managed by a board consisting of representatives from across the voice service industry, defines the policies and procedures for which entities can issue or acquire certificates. The Policy Administrator applies the rules the Governance Authority establishes, confirms that Certification Authorities are authorized to issue certificates, and confirms that voice service providers are authorized to request and receive certificates. Certification Authorities, of which there are several, issue the certificates that voice service providers use to authenticate and verify calls. Finally, the voice service providers, when acting as call initiators, select an approved Certification Authority from which to request a certificate, and when acting as call recipients, check with Certification Authorities to ensure that the certificates they receive were issued by the correct Certification Authority.

To receive a digital certificate, a voice service provider must first apply to the Policy Administrator for a Service Provider Code (SPC) token. To obtain a token, the Governance Authority policy requires that a voice service provider must (1) have a current FCC Form 499A on file with the Commission, (2) have been assigned an Operating Company Number (OCN), and (3) have certified with the FCC that they have implemented STIR/SHAKEN or comply with the Commission’s Robocall Mitigation Program requirements and are listed in the FCC Robocall Mitigation Database. The token then permits the voice service provider to obtain the digital certificates it will use

to authenticate calls from one of the approved Certification Authorities. The token, therefore, is a prerequisite for a voice service provider to participate in the STIR/SHAKEN ecosystem endorsed by section 4 of the TRACED Act (and the Commission’s implementing rules), and management of token access is the mechanism by which the Policy Administrator and Governance Authority protect the system from abuse and misuse.

The Policy Administrator grants tokens to voice service providers that meet the three eligibility criteria conditioned on the execution of a signed agreement with each voice service provider, stating that the voice service provider will follow the ATIS SHAKEN specifications. This agreement establishes that if the Policy Administrator deems the voice service provider to be in breach of the agreement, it has the authority to suspend or revoke a voice service provider’s token. The Policy Administrator may revoke a service provider’s service token on its own initiative in certain circumstances or when directed by the Governance Authority. In the SPC Token Revocation Policy, the Governance Authority lists the reasons for which a token may be revoked: (1) In the situation of compromised credentials, *i.e.*, a voice service provider’s private key has been lost, stolen, or compromised, or a certification authority has been compromised; (2) the voice service provider exits the STIR/SHAKEN ecosystem and closes its account with the Policy Administrator; (3) the voice service provider failed to adhere to the policy and technical requirements of the STIR/SHAKEN ecosystem, including the SPC Token Access Policy, funding requirements, or technical specifications regarding the use of STIR/SHAKEN; or (4) when directed by a court, the Commission, or another body with relevant legal authority due to a violation of Federal law related to caller ID authentication. When a service provider’s credentials are compromised or it exits the ecosystem (the former two scenarios), the Policy Administrator may revoke a service provider’s token without prior direction from the Governance Authority because in either circumstance revocation is clearly appropriate. However, when revocation is because a service provider failed to adhere to a policy or technical requirement, or is effected at the direction of a governmental body (the latter two scenarios), the Governance Authority conducts the revocation process according to the process

outlined in the SPC Token Revocation Policy.

*Token Revocation Procedure.* Before the Governance Authority revokes a token due to a voice service provider’s violation of a policy, technical, or legal requirement, the Governance Authority follows a multi-step process described by the SPC Token Revocation Policy, which allows the voice service provider to respond to the alleged infraction and appeal any adverse decision according to the Governance Authority’s operating procedures. According to the SPC Token Revocation Policy, the revocation review process is triggered when a voice service provider, the Policy Administrator, a Certification Authority, or a regulatory authority (such as the Commission) reports a potential issue to the Governance Authority, generally via a complaint. After a preliminary review of the complaint, the Governance Authority decides whether or not to move forward with the review process. If the Governance Authority determines there is sufficient information to move forward, notice of the complaint will be sent to the Governance Authority Board. After the Governance Authority Board receives notice of the complaint, additional notices are sent to the complainant and to all other parties in the investigation process notifying them of the confidentiality requirements of the revocation proceeding. The Governance Authority also sends notice to the subject of the complaint—which has five business days to provide a preliminary response—and to the Policy Administrator who, after consulting with the Certification Authority if necessary, provides further information on facts related to the complaint and a proposed recommendation to the Governance Authority Board on whether to move forward with the complaint review. The Governance Authority Board then decides to either reject the complaint review, agrees review is necessary and accepts the complaint for review, or, if required, assigns it to the Technical Committee for further review.

If the Governance Authority Board decides to accept the complaint for review, it will reach out to the entity that is the subject of the complaint to provide another notification, this time stating that the complaint is being investigated and requesting a substantive written response. If the Governance Authority Board determines that additional review by the Technical Committee is also necessary, it will send the complaint to the Technical Committee, which will review the complaint and provide a recommendation to the Governance

Authority Board. The Governance Authority will then review the Technical Committee's recommendation and request further investigation or discussion for the complaint, including submitting questions to all entities involved in the complaint review process. After reviewing all the material, including the Technical Committee's recommendation if necessary, the Governance Authority Board votes on whether to revoke the token, requiring a two-thirds vote of the Governance Authority Board to approve the revocation. If the Governance Authority Board votes to revoke the token, the decision is transmitted to the affected voice service provider, the complainant, and the Policy Administrator. The Policy Administrator then will execute the token revocation by deactivating the voice service provider's account and notifying all Certification Authorities to stop assigning new certificates to the voice service provider.

The aggrieved voice service provider may appeal an adverse decision by the Governance Authority Board through a formal appeal process outlined in the Governance Authority's Operating Procedures. In addition to the Governance Authority Board reviewing the complaint and issuing a written response, the formal appeal process includes the potential for a hearing before an independent panel of three individuals. Following a hearing, the appeal panel issues a written decision stating its findings of fact, conclusions, and the reasoning for its conclusions. If a voice service provider loses the appeal, or chooses not to appeal, it may seek reinstatement to the STIR/SHAKEN ecosystem if the Governance Authority approves of its plan of action to remedy the issue or issues underlying the token revocation.

On January 14, 2021, the Commission released a *Second Caller ID Authentication Further Notice of Proposed Rulemaking* proposing and seeking comment on establishing an oversight role for the Commission to oversee token revocation decisions made by the Governance Authority. The Commission specifically proposed adopting an appeal process similar to our process for reviewing decisions by the Universal Service Administrative Company (USAC). All commenters in the docket generally supported the proposal to establish such a role for the Commission. The Governance Authority Board states that “[g]iven the impact token revocation decisions will have on providers' abilities to comply with the Commission's call authentication rules, it is appropriate that the Commission should have a role in reviewing these

decisions.” INCOMPAS “supports an oversight role for the agency in the certificate revocation process” while VON “recognizes the benefits to all stakeholders” from such a role, and USTelecom states “the Commission has a critical role in reviewing any [Governance Authority] revocation decisions.”

### III. Discussion

After reviewing the record, we conclude that the Commission should have an oversight role and therefore establish a review process of the Governance Authority's token revocation decisions. We do so to provide proper due process for voice service providers aggrieved by Governance Authority token revocation decisions and to “ensure that the STIR/SHAKEN ecosystem remains robust.” We detail the specific appeals process we adopt below. As we explain, we largely adopt the proposals in the *Second Caller ID Authentication Further Notice*. We deviate from those proposals in several respects, however, such as by requiring parties seeking review of a Governance Authority decision to file their requests for review in a dedicated public docket in the Commission's Electronic Comment Filing System (ECFS) and by directing the Wireline Competition Bureau (Bureau) to review all appeals in the first instance. As we explain below, we make these changes from our initial proposals because we find doing so will facilitate efficient review based on a full record.

#### A. Appeals Process and Requirements

*Exhaustion of Governance Authority Appeals Process Required.* We will require parties seeking review by the Bureau to first exhaust the Governance Authority appeal process, including completing the Governance Authority's formal appeal process. In the *Second Caller ID Authentication Further Notice*, the Commission proposed to require exhaustion of the Governance Authority's process before accepting appeals, stating that such a requirement would “enable the dispute to fully develop before potentially reaching the Commission, thereby making it easier for the Commission to identify the relevant facts and issues.” All commenters addressing the issue support this proposal. We agree with USTelecom that “[r]equiring exhaustion of the [Governance Authority] process will ensure that the [Governance Authority] can complete its process and render an independent decision before the FCC intervenes.” Doing so will ensure that only “serious challenges” will end up in front of the Commission,

and will avoid wasting Commission resources by preventing us from “duplicating efforts and expending resources to develop the same facts [as the Governance Authority].” As VON notes, requiring exhaustion of the Governance Authority's process will “resolve a large majority of complaints without Commission action” ensuring the Commission does not waste time on issues that can be properly resolved by the Governance Authority.

*Parties Permitted to Seek Review.* We establish that any voice service provider aggrieved by a Governance Authority decision to revoke that provider's token may seek review by the Bureau after exhausting the appeals process established by the Governance Authority. We only allow appeals by the aggrieved party that suffered the token revocation, and not another party on its behalf, to ensure efficient use of limited Commission resources and provide finality and certainty for affected parties seeking an appeal. Third parties, including the Governance Authority, may participate to the extent that they may file oppositions and replies. This procedure mirrors the process in Universal Service appeals, where only the aggrieved party may appeal a USAC decision and other interested third parties may participate by filing oppositions and replies as appropriate, as well as supportive filings. We find that this approach—in addition to being consistent with the well-established process for USAC appeals—best balances competing arguments in the record. VON argues that voice service providers that rely on a delegated certification from a token holder should also be allowed to participate in the appeal as “intervenor” or have “interested party status.” VON states that some voice service providers “required to participate in the STIR/SHAKEN ecosystem may not obtain their own certificates and may instead rely on delegated certification from a token-holder.” Therefore, it asserts, “revoking a token would not just result in potential injury to the token-holder, but also to any other service provider that relies on the token-holder's continued authorization.” We disagree that voice service providers that rely on delegated tokens should be accorded special status because allowing them to participate in the appeal as interested parties “is not likely to give them the relief they need if the token holder is abusing its token.” Furthermore, the impact to a voice service provider with a delegated token is irrelevant as to whether the token holder acted in violation of rules such that token

revocation is appropriate. USTelecom, in contrast with VON, argues that “[o]nly the token holders should participate in the appeal process.” To the extent USTelecom is arguing that third parties should not be able to participate in an appeal in any capacity, we disagree; we see no compelling reason to diverge with our standard procedures and not allow third parties, including voice service providers that rely on delegated tokens, to file oppositions and replies.

We note that any voice service provider that relies on a delegated token from another entity may seek a waiver of our STIR/SHAKEN rules for a limited time period if the token it relies upon is revoked. We agree with USTelecom that in typical cases, a 90-day waiver period, from the date the Governance Authority revokes a provider’s token in the first instance, should give a voice service provider sufficient time to transfer its delegated token to a new partner and continue to participate in the STIR/SHAKEN framework. This time period balances the need for an affected voice service provider to have adequate time to receive another certificate with the public interest of broad STIR/SHAKEN participation. However, affected providers are free to request a different waiver period accompanied by an explanation of good cause for such a time period. We direct the Bureau to rule on all such waiver requests. Review of waivers of Commission rules is consistent with the Bureau’s authority and will ensure waiver requests are reviewed in a timely and efficient manner to maintain the efficacy of the STIR/SHAKEN ecosystem.

**Filing Deadlines.** We establish that aggrieved providers have 60 days to seek Bureau review after the Governance Authority upholds its adverse token revocation decision. Specifically, a voice service provider requesting Bureau review of a Governance Authority decision to revoke that voice service provider’s token shall file such a request electronically in ECFS within 60 days from the date the Governance Authority upholds its token revocation decision. Sixty days will provide sufficient time to an aggrieved voice service provider to receive notice and file a request for review and is equivalent to the time given parties in our Universal Service appeals process. The only commenter to address this issue, INCOMPAS, opposed our proposal and suggested we give aggrieved voice service providers 30 days to request review instead of 60 days in order to expedite the review process because “[r]evoking a voice

service provider’s access to SPC tokens will have significant repercussions for the provider and its customers.” We disagree with INCOMPAS’s proposed shorter deadline. Because of the importance of the token to our STIR/SHAKEN rules we want to ensure providers have sufficient time to request review of any token revocation. Thirty days may not give affected voice service providers enough time to receive notice of the Governance Authority decision and then to prepare and file a request for review with the Bureau. We note that the 60-day deadline does not prevent providers from filing appeals sooner to expedite a review. We also note that 60 days is the same timeframe provided for in our Universal Service appeal process.

We also establish that any commenters shall adhere to the time periods for filing oppositions and replies as set forth in § 1.45 of our rules. This follows the procedure in our USAC appeals process and was unopposed in the record.

We establish a 180-day “shot clock” for the Bureau’s review period, similar to the procedure used in our pole access complaint resolution proceedings. One hundred eighty days will typically be sufficient time for staff to complete reviews even if they present novel and potentially complex factual issues, and for staff to have time to present follow-up questions to the appealing party or the Governance Authority if necessary, while also ensuring parties can set expectations for when the review will be completed. As with pole access complaints, we expect the Bureau to meet the shot clock “except in extraordinary circumstances.”

The record support in favor of establishing a specific time limit for the Bureau’s review persuades us to deviate from our proposal not to impose such a limit. VON argues we should impose a time limit on Bureau review “since revocation of a token can substantially impact a provider’s business.” INCOMPAS suggests the Commission adopt a 30-day time limit for the Bureau to complete its review, arguing that speedy resolution is necessary because it “will give impacted voice service providers and their customers the information and clarity they need to make plans beyond the Commission’s review.” And the Governance Authority Board states, “it is important that the Commission conclude its review and issue a decision as quickly as reasonably possible.” Nonetheless, while we agree with these commenters that prompt review is important, we disagree with INCOMPAS that the review period should be 30 days. INCOMPAS does not

explain how the Bureau can adequately account for the potential novel and complex factual issues each appeal could raise in 30 days. Instead, we think a 180-day period is sufficient to ensure that the Bureau has time to render a carefully considered review for each appeal while also ensuring the review is completed in a timely and reasonable manner. And if an appeal were not to pose novel or complex issues, we think it could be completed well before 180 days.

We establish that the shot clock will start when the request for review is filed in ECFS. This procedure is identical to the one used in our pole access complaint proceedings and will ensure the Bureau and all parties are on notice of when the shot clock begins counting down in order to set expectations of when the review will be completed. We also establish that the Bureau will have discretion to pause the 180-day review period when actions outside the Bureau’s control delay the Bureau’s review. For example, the Bureau may pause the shot clock if parties need additional time to provide key information requested by the Bureau. The Bureau will resume the shot clock when the cause for pausing the shot clock has been resolved. We direct the Bureau to provide written notice of any pause in the shot clock, as well as when the shot clock is resumed. This procedure similarly draws from the one we use in pole access complaint review and will ensure the Bureau has adequate time to complete its review if faced with delays outside its control and that all parties are duly informed whenever the shot clock is paused or resumed.

**Filing Requirements.** We establish that requests for review shall be filed electronically in WC Docket No. 21–291, Appeals of the STIR/SHAKEN Governance Authority Token Revocation Decisions, in ECFS. The request for review shall be captioned “In the matter of Request for Review by (name of party seeking review) of Decision of the Governance Authority to Revoke an SPC Token.” The request for review shall contain (1) a statement setting forth the voice service provider’s asserted basis for appealing the Governance Authority’s decision to revoke the token; (2) a full statement of relevant, material facts with supporting affidavits and documentation, including any background information the voice service provider deems useful to the Bureau’s review; and (3) the question presented for review, with reference, where appropriate, to any underlying Commission rule or Governance Authority policy. Moreover, we establish that requests for review need

not include a statement of the relief sought. We assume that the relief sought will always be the reversal of the Governance Authority's revocation decision. We establish that the party seeking review shall send a copy of the request for review to the Governance Authority via *sti-ga@atis.org* or another method specified in the Governance Authority's Operating Procedures. Filers may request confidential treatment for filings pursuant to § 0.459 of our rules. These proposals were all unopposed in the record. In the *Second Further Notice* we proposed that filers would submit requests for review to the Commission's non-docketed inbox where they would not be viewable by the public. We deviate from this proposal and require filers to submit their requests to ECFS in order to allow public notice and opportunity to comment by third parties.

**Governance Authority Record.** We encourage the Governance Authority to submit to the Bureau the full record of a token revocation appeal within five days of receiving notice of a voice service provider's request for Bureau review. We ask the Governance Authority to file the record materials in WC Docket No. 21–291, Appeals of the STIR/SHAKEN Governance Authority Token Revocation Decisions, in ECFS. Governance Authority submission of such materials to the Bureau will “increase efficiency and fairness” of the Bureau's review process. The full record should include, as suggested by the Governance Authority Board, “the completed SPC token Complaint Submission Form, the notice of complaint that was sent to the [Governance Authority] Board, written responses from the provider at issue, the final written decision of the [Governance Authority] Board, any materials provided by the service provider as part of an appeal of the decision under the [Governance Authority] Operating Procedures, as well as the written decision by the [Governance Authority] Board regarding the appeal.” We agree with the Governance Authority Board that it does not need to submit drafts of the required documents or Board discussions to protect the confidentiality of its internal deliberations. We also recognize the Governance Authority Board's concern that the materials submitted by the Governance Authority Board merit confidential treatment and should be treated as such because they are likely to contain privileged or confidential “provider-specific” commercial information. Accordingly, the Governance Authority may request

confidential treatment for its submissions pursuant to § 0.459 of our rules (as set forth in our rules, the Governance Authority Board would need to identify the specific information for which it is requesting confidential treatment. The Governance Authority Board also would need to submit a version of the filing that can be made public with the confidential material redacted. We encourage the Governance Authority Board to work with the voice service provider seeking review to determine which information is confidential or to put procedures in place that will require voice service providers to identify confidential information when submitting information to the Governance Authority Board and to identify any categories of internal documents it considers confidential.).

We do not expect the Governance Authority to submit a statement in opposition to the request for review. We will rely “on the entirety of the record developed” by the Governance Authority during its review process and will “only engage the [Governance Authority] in an appeal to the extent necessary to understand [Governance Authority's] policies and procedures and the [Governance Authority's] interpretations of them.” USTelecom argues that “[r]equiring the [Governance Authority] to file a statement in opposition to the FCC review request would needlessly make the [Governance Authority] a party to the proceeding rather than a neutral, independent arbiter in its own right.” USTelecom also notes that in the USAC appeals process “USAC does not file a statement in opposition to the review request.” We agree with USTelecom that the Governance Authority should remain a neutral party in the appeals process. However, we do not affirmatively prohibit the Governance Authority from participating beyond submission of the record should it find it appropriate to do so.

**Wireline Competition Bureau Review.** We establish that the Wireline Competition Bureau will review and issue decisions in the first instance in all appeals of decisions from the Governance Authority (in the *Second Caller ID Authentication Further Notice* the Commission proposed that the Bureau would review all appeals with one exception: the Commission would review appeals that presented “novel questions of fact, law, or policy.” That approach followed our USAC appeals procedure. We deviate from our USAC appeals procedure because, after further consideration, we expect most, if not all, appeals to present fact-specific and

technically complicated issues; the Bureau is best situated to review such appeals in the first instance in a speedy manner.). Accordingly, we direct the Bureau to review all requests for review in the first instance, with applications for review to the Commission available after the Bureau issues a final decision. We direct the Bureau to ensure its decisions maintain the integrity and efficacy of the STIR/SHAKEN ecosystem to protect the public from unlawfully spoofed calls and unlawful robocalls. By directing the Bureau to review all appeals in the first instance we ensure voice service providers receive speedy resolution of their disputes by agency experts and those voice service providers whose tokens are determined to be rightfully revoked are promptly required to update their Robocall Mitigation Database certifications. We reiterate that, as with any decision adopted on delegated authority, an affected party may seek review by the full Commission of a decision issued by the Bureau, thus ensuring Commission oversight of all decision-making and availability to any interested party. No party addressed the appropriate scope of review by the Bureau in the record.

**Standard of Review.** We establish that the standard of review by the Bureau will be *de novo*. Specifically, we direct the Bureau to conduct *de novo* review of Governance Authority decisions to revoke a voice service provider's token. We agree with the Governance Authority Board that *de novo* review “will allow the Commission to independently verify the [Governance Authority] Board's decisions and better ensure that the SHAKEN ecosystem continues to operate in a fair and equitable manner.” Such an approach also avoids the concern expressed by VON that “anything more deferential than *de novo* review would inevitably result in [Governance Authority] decisions receiving precedential treatment, and would turn the STI–GA into a *de facto* policymaking body in place of the FCC.” A *de novo* standard of review was unopposed in the record and commenters all agreed a *de novo* standard is appropriate.

**Status During Pendency of Appeals.** We adopt a new rule establishing that throughout the review period, starting from when the Governance Authority revokes a voice service provider's token and including the duration of the Governance Authority's formal appeals process, until the Bureau issues a decision on the appeal, a voice service provider will not be judged to be in violation of the Commission's STIR/SHAKEN rules as a result of the revocation. We agree with USTelecom



that it would be unreasonable for the agency to judge a voice service provider as noncompliant during the pendency of an appeal before it evaluates a revocation decision. USTelecom and NCTA supported this proposal. We find it necessary to satisfy due process for a party to have the opportunity to appeal the decision of the private Governance Authority and, if it appeals, to obtain a decision by the Bureau before being judged noncompliant. VON argues that we also not judge “delegated certificate customers” of a voice service provider that has its token revoked noncompliant during the pendency of an appeal. We disagree with VON. Establishing that a voice service provider that relies on a delegated token not be judged in violation of our rules during the pendency of an appeal would be redundant because such a provider may seek a waiver of our rules if the token it relies upon is revoked.

More specifically, we clarify that a provider subject to a revocation will not be in violation of our STIR/SHAKEN rules as a result of the revocation during (1) the time period in which it may file an appeal to the Governance Authority; (2) the pendency of any appeal before the Governance Authority; (3) the time period in which it may file an appeal to the Bureau; and (4) if it files an appeal with the Bureau, until the Bureau releases a final decision regarding the appeal (should the Bureau uphold or otherwise decide not to overturn the Governance Authority’s decision, an aggrieved voice service provider may file a petition for reconsideration or application for review within the time periods permitted by our rules, but such filing will not protect the provider from a finding of noncompliance while the petition or application is pending.). The exclusion from liability applies specifically to rule 64.6301, which requires implementation of STIR/SHAKEN. In addition, because a voice service provider that has been aggrieved by an adverse Governance Authority service token revocation decision is not considered in violation of 64.6301 during the pendency of its appeal to the Bureau, it will not need to submit an amended filing to the Robocall Mitigation Database until its window to appeal to the Governance Authority or the Bureau lapses or, if it appeals, until the Bureau issues a final decision regarding its appeal. Specifically, while a voice service provider has the opportunity to appeal and while a filed appeal is pending, the voice service provider will not be judged in violation of the requirement to file an updated filing within 10 business days of any

change to the information it must provide to the Commission pursuant to § 64.6305 of our rules. After the Bureau issues its decision, the voice service provider must update its Robocall Mitigation Database filing within 10 business days, if necessary (if the Bureau upholds a token revocation decision, the affected provider will be in violation of the § 64.6301(a) requirement to participate in STIR/SHAKEN because, without a token, the provider will not be able to authenticate calls it originates consistent with the STIR/SHAKEN standards. A voice service provider that has its token revoked will not be eligible for the extension for voice service providers that cannot obtain a SPC token. The Commission established the extension for voice service providers for whom it is unfeasible to obtain a token in the first instance under the Governance Authority’s Token Access Policy, not for providers that are subject to token revocation.).

In the *Second Caller ID Authentication Further Notice*, the Commission proposed that a voice service provider would not be judged in violation of the TRACED Act during the pendency of an appeal. We decline to adopt this proposal. The TRACED Act contains no STIR/SHAKEN implementation obligation for voice service providers; rather it directs the Commission to require voice service providers to implement STIR/SHAKEN. There is therefore no need to establish that voice providers will not be judged in violation of the TRACED Act during the pendency of an appeal.

We conclude that after revocation by the Governance Authority, a voice service provider may not maintain possession and use of its token regardless of whether it files an appeal to the Bureau. In effect, this means that although a voice service provider will not be judged in violation of our rules it will not be able to continue to exchange STIR/SHAKEN-authenticated traffic during the pendency of an appeal. The only commenter to address the subject supports the approach we adopt, and we agree that we do not want to create an incentive for bad-actor voice service providers to appeal the Governance Authority decision for the sole purpose of delaying revocation of their tokens. For the same reason, should the Bureau uphold or otherwise decide not to overturn the Governance Authority’s decision, a voice service provider will not regain the right to use its token by filing a petition for reconsideration or application for review. This proposal was unopposed in the record.

#### B. Legal Authority

We conclude that section 4(b)(1) of the TRACED Act grants us authority to establish an oversight role for the Commission to review token revocation decisions made by the Governance Authority. Section 4(b)(1) directs the Commission to require the implementation of the STIR/SHAKEN framework. Establishing an oversight role for the Commission is consistent with the TRACED Act’s caller ID authentication implementation mandate because it will make revocation decisions by the Governance Authority that have the effect of putting entities outside of our STIR/SHAKEN implementation rules reviewable by the Commission. We also conclude we have authority to establish an oversight role for the Commission under section 251(e) of the Communications Act of 1934, as amended. Section 251(e) grants the Commission exclusive jurisdiction over North American Numbering Plan resources in the United States and, within that broad grant, provides us with authority to mandate caller ID authentication. We find that section 251(e) grants us the corresponding authority to review decisions that have the impact of preventing a voice service provider from complying with our caller ID authentication rules. No party opposed our assertion of legal authority.

#### IV. Procedural Matters

*Final Regulatory Flexibility Analysis.* As required by the Regulatory Flexibility Act of 1980 (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Second Caller ID Authentication Further Notice of Proposed Rulemaking*. The Commission sought written public comment on the possible significant economic impact on small entities regarding proposals addressed in the *Second Caller ID Authentication Further Notice of Proposed Rulemaking*, including comments on the IRFA. Pursuant to the RFA, a Final Regulatory Flexibility Analysis is set forth in Appendix B. The Commission’s Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of this *Third Report and Order*, including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).

*Paperwork Reduction Act.* This document contains new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. These requirements have been reviewed and approved by the Office of Management and Budget (OMB)



pursuant to 44 U.S.C. 3507(d) (The new information collection requirements were preapproved by the Office of Management and Budget under OMB Control No. 3060–1287 on June 3, 2021.) In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, we previously sought comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees. This document also contains non-substantive modifications to the approved information collection. These modifications will be submitted to OMB for review and approval pursuant to OMB's non-substantive change process.

*Congressional Review Act.* The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs, that this rule is “non-major” under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of this *Third Report and Order* to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

*Contact Person.* For further information about the *Third Report and Order*, contact Alexander Hobbs, Attorney Advisor, Competition Policy Division, Wireline Competition Bureau, at (202) 418–7433 or [Alexander.Hobbs@fcc.gov](mailto:Alexander.Hobbs@fcc.gov).

## V. Initial Final Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act of 1980, as amended, an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the *Second Caller ID Authentication Further Notice of Proposed Rulemaking*. The Commission sought written public comments on the proposals in the *Second Caller ID Authentication Further Notice*, including comments on the IRFA. No comments were filed addressing the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

### *Need for, and Objectives of, the Proposed Rules*

This *Third Report and Order* continues the Commission's efforts to combat illegal spoofed robocalls. Specifically, the *Third Report and Order* establishes an oversight role for the Commission of the STIR/SHAKEN governance system's token revocation process. Under the adopted procedure, any voice service provider or intermediate provider that has its Service Provider Code (SPC) token revoked may seek review of this

decision by the Commission through established procedures. The procedures in the *Third Report and Order* will help promote effective caller ID authentication through STIR/SHAKEN.

The *Third Report and Order* finds authority for these proposed rules under the TRACED Act. Section 4(b)(1) of the TRACED Act provided authority to require the implementation of the STIR/SHAKEN framework. We believe that to effectively direct the implementation of STIR/SHAKEN consistent with the TRACED Act, the Commission must have a role in decisions to revoke Service Provider Code tokens because the result of such a decision could place the service provider in noncompliance with our rules. The *Third Report and Order* also finds independent authority under section 251(e) of the Communications Act of 1934, as amended (the Act).

### *Summary of Significant Issues Raised by Public Comments in Response to the IRFA*

There were no comments filed that specifically addressed the proposed rules and policies presented in the IRFA.

### *Response to Comments by the Chief Counsel for Advocacy of the SBA*

Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rules as a result of those comments.

The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

### *Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply*

The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules and by the rule revisions on which the Notice seeks comment, if adopted. The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small-business concern” under the Small Business Act. A “small-business concern” is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any

additional criteria established by the SBA.

*Wired Telecommunications Carriers.* The U.S. Census Bureau defines this industry as “establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks.

Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.” The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees. U.S. Census Bureau data for 2012 show that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Thus, under this size standard, the majority of firms in this industry can be considered small.

*Local Exchange Carriers (LECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. The closest applicable NAICS Code category is Wired Telecommunications Carriers. Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2012 show that there were 3,117 firms that operated for the entire year. Of that total, 3,083 operated with fewer than 1,000 employees. Thus under this category and the associated size standard, the Commission estimates that the majority of local exchange carriers are small entities.

*Incumbent LECs.* Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The closest applicable NAICS Code category is Wired Telecommunications Carriers. Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2012 indicate that 3,117 firms operated the entire year. Of this total, 3,083 operated with fewer than 1,000 employees. Consequently, the

Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by our actions. According to Commission data, one thousand three hundred and seven (1,307) Incumbent Local Exchange Carriers reported that they were incumbent local exchange service providers. Of this total, an estimated 1,006 have 1,500 or fewer employees. Thus, using the SBA's size standard the majority of incumbent LECs can be considered small entities.

*Competitive Local Exchange Carriers (Competitive LECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate NAICS Code category is Wired Telecommunications Carriers and under that size standard, such a business is small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2012 indicate that 3,117 firms operated during that year. Of that number, 3,083 operated with fewer than 1,000 employees. Based on these data, the Commission concludes that the majority of Competitive LECs, CAPs, Shared-Tenant Service Providers, and Other Local Service Providers, are small entities. According to Commission data, 1,442 carriers reported that they were engaged in the provision of either competitive local exchange services or competitive access provider services. Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer employees. In addition, 17 carriers have reported that they are Shared-Tenant Service Providers, and all 17 are estimated to have 1,500 or fewer employees. Also, 72 carriers have reported that they are Other Local Service Providers. Of this total, 70 have 1,500 or fewer employees. Consequently, based on internally researched FCC data, the Commission estimates that most providers of competitive local exchange service, competitive access providers, Shared-Tenant Service Providers, and Other Local Service Providers are small entities.

We have included small incumbent LECs in this present RFA analysis. As noted above, a "small business" under the RFA is one that, *inter alia*, meets the pertinent small-business size standard (e.g., a telephone communications business having 1,500 or fewer employees) and "is not dominant in its field of operation." The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not

"national" in scope. We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

*Interexchange Carriers (IXCs).* Neither the Commission nor the SBA has developed a small business size standard specifically for Interexchange Carriers. The closest applicable NAICS Code category is Wired Telecommunications Carriers. The applicable size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2012 indicate that 3,117 firms operated for the entire year. Of that number, 3,083 operated with fewer than 1,000 employees. According to internally developed Commission data, 359 companies reported that their primary telecommunications service activity was the provision of interexchange services. Of this total, an estimated 317 have 1,500 or fewer employees. Consequently, the Commission estimates that the majority of interexchange service providers are small entities.

*Cable System Operators (Telecom Act Standard).* The Communications Act of 1934, as amended, also contains a size standard for small cable system operators, which is "a cable operator that, directly or through an affiliate, serves in the aggregate fewer than one percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed \$250,000,000." As of 2018, there were approximately 50,504,624 cable video subscribers in the United States. Accordingly, an operator serving fewer than 505,046 subscribers shall be deemed a small operator if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed \$250 million in the aggregate. We note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed \$250 million. Therefore we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

*Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves.

Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless internet access, and wireless video services. The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, U.S. Census Bureau data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms employed fewer than 1,000 employees and 12 firms employed 1,000 employees or more. Thus under this category and the associated size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities.

The Commission's own data—available in its Universal Licensing System—indicate that, as of August 31, 2018 there are 265 Cellular licensees that will be affected by our actions. The Commission does not know how many of these licensees are small, as the Commission does not collect that information for these types of entities. Similarly, according to internally developed Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service (PCS), and Specialized Mobile Radio (SMR) Telephony services. Of this total, an estimated 261 have 1,500 or fewer employees, and 152 have more than 1,500 employees. Thus, using available data, we estimate that the majority of wireless firms can be considered small.

*Satellite Telecommunications.* This category comprises firms "primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications." Satellite telecommunications service providers include satellite and earth station operators. The category has a small business size standard of \$35 million or less in average annual receipts, under SBA rules. For this category, U.S. Census Bureau data for 2012 show that there were a total of 333 firms that operated for the entire year. Of this total, 299 firms had annual receipts of less than \$25 million. Consequently, we estimate that the majority of satellite telecommunications providers are small entities.

*Local Resellers.* The SBA has not developed a small business size standard specifically for Local Resellers.

The SBA category of Telecommunications Resellers is the closest NAICS code category for local resellers. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual network operators (MVNOs) are included in this industry. Under the SBA's size standard, such a business is small if it has 1,500 or fewer employees. U.S. Census Bureau data from 2012 show that 1,341 firms provided resale services during that year. Of that number, all operated with fewer than 1,000 employees. Thus, under this category and the associated small business size standard, the majority of these resellers can be considered small entities. According to Commission data, 213 carriers have reported that they are engaged in the provision of local resale services. Of these, an estimated 211 have 1,500 or fewer employees and two have more than 1,500 employees. Consequently, the Commission estimates that the majority of local resellers are small entities.

*Toll Resellers.* The Commission has not developed a definition for Toll Resellers. The closest NAICS Code Category is Telecommunications Resellers. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. MVNOs are included in this industry. The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. 2012 Census Bureau data show that 1,341 firms provided resale services during that year. Of that number, 1,341 operated with fewer than 1,000 employees. Thus, under this category and the associated small business size standard, the majority of these resellers can be considered small entities. According to Commission data,

881 carriers have reported that they are engaged in the provision of toll resale services. Of this total, an estimated 857 have 1,500 or fewer employees. Consequently, the Commission estimates that the majority of toll resellers are small entities.

*Prepaid Calling Card Providers.* Neither the Commission nor the SBA has developed a small business definition specifically for prepaid calling card providers. The most appropriate NAICS code-based category for defining prepaid calling card providers is Telecommunications Resellers. This industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual network operators (MVNOs) are included in this industry. Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2012 show that 1,341 firms provided resale services during that year. Of that number, 1,341 operated with fewer than 1,000 employees. Thus, under this category and the associated small business size standard, the majority of these prepaid calling card providers can be considered small entities. According to Commission data, 193 carriers have reported that they are engaged in the provision of prepaid calling cards. All 193 carriers have 1,500 or fewer employees. Consequently, the Commission estimates that the majority of prepaid calling card providers are small entities that may be affected by these rules.

*All Other Telecommunications.* The "All Other Telecommunications" category is comprised of establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing internet services or voice over internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry. The SBA has developed a

small business size standard for "All Other Telecommunications", which consists of all such firms with annual receipts of \$35 million or less. For this category, U.S. Census Bureau data for 2012 show that there were 1,442 firms that operated for the entire year. Of those firms, a total of 1,400 had annual receipts less than \$25 million and 15 firms had annual receipts of \$25 million to \$49,999,999. Thus, the Commission estimates that the majority of "All Other Telecommunications" firms potentially affected by our action can be considered small.

#### *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities*

The *Third Report and Order* adopts new rules requiring voice service providers to update their filings to the robocall mitigation database if the Bureau upholds an adverse service token revocation decision made by the Governance Authority. Some voice service providers required to amend their filings in this way may be small voice service providers.

#### *Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered*

The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rules for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.

The *Third Report and Order* adopts rules establishing an oversight role for the Commission within the STIR/SHAKEN governance system's token revocation process. Under our newly adopted rules entities, including small entities, that have their SPC token revoked by the private STIR/SHAKEN Governance Authority may appeal that decision to the Commission.

#### *Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules*

None.

Report to Congress

The Commission will send a copy of the Third Report and Order, including this FRFA, in a report to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the Third Report and Order, including the FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the Third Report and Order and FRFA (or summaries thereof) will also be published in the Federal Register.

VI. Ordering Clauses

Accordingly, it is ordered, pursuant to sections 4(i), 4(j), 201(b), 227b, 251(e), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 201(b), 227b, 251(e), and 303(r), that this Third Report and Order is adopted.

It is further ordered that parts 0 and 64 of the Commission's rules are amended as set forth in Appendix A, and that, pursuant to §§ 1.4(b)(1) and 1.103(a) of the Commission's rules, 47 CFR 1.4(b)(1), 1.103(a), this Third Report and Order shall be effective 30 days after publication of this Third Report and Order in the Federal Register, which will occur after the Commission receives OMB approval of the non-substantive changes contained herein.

It is further ordered that the Commission shall send a copy of this Third Report and Order to Congress and to the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Parts 0 and 64

Authority delegations (government agencies), Communications common carriers.

Federal Communications Commission. Marlene Dortch, Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 parts 0 and 64 as follows:

PART 0—COMMISSION ORGANIZATION

■ 1. The authority citation for part 0 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 154(j), 155, 225, and 409, unless otherwise noted.

■ 2. Amend § 0.91 by adding paragraph (r) to read as follows:

§ 0.91 Functions of the Bureau.

\* \* \* \* \*

(r) Review and resolve appeals of decisions by the STIR/SHAKEN authentication framework Governance Authority (as those terms are defined in § 64.6300 of this chapter) in accordance with § 64.6308 of this chapter.

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

■ 3. The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 154, 201, 202, 217, 218, 220, 222, 225, 226, 227, 227b, 228, 251(a), 251(e), 254(k), 262, 276, 403(b)(2)(B), (c), 616, 620, 1401–1473, unless otherwise noted; Pub. L. 115–141, Div. P, sec. 503, 132 Stat. 348, 1091.

■ 4. Amend § 64.6305 by adding paragraphs (b)(5)(i) and (ii) to read as follows:

§ 64.6305 Robocall mitigation and certification.

\* \* \* \* \*

(b) \* \* \* (5) \* \* \*

(i) A voice service provider or intermediate provider that has been aggrieved by a Governance Authority decision to revoke that voice service provider's or intermediate provider's SPC token need not update its filing on the basis of that revocation until the sixty (60) day period to request Commission review, following completion of the Governance Authority's formal review process, pursuant to § 64.6308(b)(1) expires or, if the aggrieved voice service provider or intermediate provider files an appeal, until ten business days after the Wireline Competition Bureau releases a final decision pursuant to § 64.6308(d)(1).

(ii) If a voice service provider or intermediate provider elects not to file a formal appeal of the Governance Authority decision to revoke that voice service provider's or intermediate provider's SPC token, the provider need not update its filing on the basis of that revocation until the thirty (30) day period to file a formal appeal with the Governance Authority Board expires.

\* \* \* \* \*

■ 5. Add § 64.6308 to subpart HH to read as follows:

§ 64.6308 Review of Governance Authority Decision to Revoke an SPC Token.

(a) Parties permitted to seek review of Governance Authority decision. (1) Any voice service provider or intermediate provider aggrieved by a Governance Authority decision to revoke that voice service provider's or intermediate provider's SPC token, must seek review from the Governance Authority and

complete the appeals process established by the Governance Authority prior to seeking Commission review.

(2) Any voice service provider or intermediate provider aggrieved by an action to revoke its SPC token taken by the Governance Authority, after exhausting the appeals process provided by the Governance Authority, may then seek review from the Commission, as set forth in this section.

(b) Filing deadlines. (1) A voice service provider or intermediate provider requesting Commission review of a Governance Authority decision to revoke that voice service provider's or intermediate provider's SPC token by the Commission, shall file such a request electronically in the Electronic Comment Filing System (ECFS) in WC Docket No. 21–291, Appeals of the STIR/SHAKEN Governance Authority Token Revocation Decisions within sixty (60) days from the date the Governance Authority upholds its token revocation decision.

(2) Parties shall adhere to the time periods for filing oppositions and replies set forth in § 1.45.

(c) Filing requirements. (1) A request for review of a Governance Authority decision to revoke a voice service provider's or intermediate provider's SPC token by the Commission shall be filed in WC Docket No. 21–291, Appeals of the STIR/SHAKEN Governance Authority Token Revocation Decisions, in the Electronic Comment Filing System (ECFS). The request for review shall be captioned "In the matter of Request for Review by (name of party seeking review) of Decision of the Governance Authority to Revoke an SPC Token."

(2) A request for review shall contain:

(i) A statement setting forth the voice service provider's or intermediate provider's asserted basis for appealing the Governance Authority's decision to revoke the SPC token;

(ii) A full statement of relevant, material facts with supporting affidavits and documentation, including any background information the voice service provider or intermediate provider deems useful to the Commission's review; and

(iii) The question presented for review, with reference, where appropriate, to any underlying Commission rule or Governance Authority policy.

(3) A copy of a request for review that is submitted to the Commission shall be served on the Governance Authority by the voice service provider requesting Commission review via sti-ga@atis.org or in accordance with any alternative

delivery mechanism the Governance Authority may establish in its operating procedures.

(d) *Review by the Wireline Competition Bureau.* (1) Except in extraordinary circumstances, final action on a request for review of a Governance Authority decision to revoke a voice service provider's or intermediate provider's SPC token should be expected no later than 180 days from the date the request for review is filed in the Electronic Comment Filing System (ECFS) pursuant to § 64.6308(b)(1). The Wireline Competition Bureau shall have the discretion to pause the 180-day review period in situations where actions outside the Wireline Competition Bureau's control are responsible for delaying review of a request for review.

(2) An affected party may seek review of a decision issued under delegated authority by the Wireline Competition Bureau pursuant to the rules set forth in § 1.115.

(e) *Standard of review.* The Wireline Competition Bureau shall conduct *de novo* review of Governance Authority decisions to revoke a voice service provider's or intermediate provider's SPC token.

(f) *Status during pendency of a request for review and a Governance Authority decision.* (1) A voice service provider or intermediate provider shall not be considered to be in violation of the Commission's caller ID authentication rules under § 64.6301 after revocation of its SPC token by the Governance Authority until the thirty (30) day period to file a formal appeal with the Governance Authority Board expires, or during the pendency of any formal appeal to the Governance Authority Board.

(2) A voice service provider or intermediate provider shall not be considered to be in violation of the Commission's caller ID authentication rules under § 64.6301 after the Governance Authority Board upholds the Governance Authority's SPC token revocation decision until the sixty (60) day period to file a request for review with the Commission expires.

(3) When a voice service provider or intermediate provider has sought timely Commission review of a Governance Authority decision to revoke a voice service provider's or intermediate provider's SPC token under this section, the voice service provider shall not be considered to be in violation of the Commission's caller ID authentication rules under § 64.6301 until and unless the Wireline Competition Bureau, pursuant to paragraph (d)(1) of this

section, has upheld or otherwise decided not to overturn the Governance Authority's decision.

(4) In accordance with §§ 1.102(b) and 1.106(n), the effective date of any action pursuant to paragraph (d) shall not be stayed absent order by the Wireline Competition Bureau or the Commission.

[FR Doc. 2021-18765 Filed 8-30-21; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 54

[WC Docket Nos. 18-89; DA 21-947; FRS 44708]

### Wireline Competition Bureau Finalizes Application Filings, Procedures, Cost Catalog, and Replacement List for the Secure and Trusted Communications Networks Reimbursement Program

**AGENCY:** Federal Communications Commission (FCC).

**ACTION:** Final action.

**SUMMARY:** In this document, the Wireline Competition Bureau (the Bureau) adopts final procedures for, and provides eligible providers of advanced communications services with additional guidance regarding, the application filing and reimbursement process for the \$1.9 billion Secure and Trusted Communications Networks Reimbursement Program (Reimbursement Program). The Bureau also adopted final versions of the FCC Form 5640 Application Request for Funding Allocation and Reimbursement Claim Request, the Catalog of Eligible Expenses and Estimated Costs (Catalog), and the List of Categories of Suggested Replacement Equipment and Services (Replacement List) for the Reimbursement Program.

**DATES:** The procedures outlined in this document are effective on September 30, 2021, except for the FCC Form 5640 application form, which is subject to approval from the Office of Management and Budget. The Bureau will publish a document in the **Federal Register** announcing the effective date for the FCC Form 5640. The Bureau will also subsequently release a public notice announcing when it will begin accepting applications and the application deadline for participating in the Reimbursement Program.

**FOR FURTHER INFORMATION CONTACT:** Christopher Koves, Wireline Competition Bureau, 202-418-7400 or by emailing [Supplychain@fcc.gov](mailto:Supplychain@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Bureau's document

(Public Notification or PN) in WC Docket No. 18-89; DA 21-947, released on August 3, 2021. The full text of this document is available for public inspection on the Commission's website at <https://docs.fcc.gov/public/attachments/DA-21-947A1.pdf>.

## I. Introduction

1. By this document, the Bureau adopts final procedures for, and provides eligible providers of advanced communications services with additional guidance regarding, the application filing and reimbursement process for the \$1.9 billion Reimbursement Program. After considering comments received in response to the *Reimbursement Process Public Notification (PN)*, 86 FR 31464, June 14, 2021, the Bureau finalizes the information fields on the new FCC Form 5640, which participants must submit to request funding allocations and disbursements from the Reimbursement Program, as well as the procedures governing the submission of and any modifications made to that form. Acting Chairwoman Rosenworcel has announced a "target date" of October 29, 2021, to open the Reimbursement Program filing window to begin accepting applications. Prior to the target date, the Bureau will announce in a forthcoming public notice when it will open the Reimbursement Program online portal and begin accepting applications, and the filing window closing date. Finally, after considering comments received in response to the *Catalog PN*, 86 FR 18932, April 12, 2021, the Bureau also finalizes with this document the Catalog and the Replacement List which will be made available on the Commission's website.

## II. Discussion

### A. FCC Form 5640—Application Request for Funding Allocation and Reimbursement Claim Requests

2. The Bureau adopts the application and reimbursement procedures and finalizes forms for the Reimbursement Program proposed in the *Reimbursement Process PN*.

3. In the *Reimbursement Process PN*, the Bureau provided a representative sample of the questions to be included in the FCC Form 5640 Application Request for Funding Allocation and sought comment on those information fields. The Bureau received persuasive comments regarding various fields applicants would complete in the new proposed form and, in response, it has implemented some modifications, and will proceed with finalizing that form.

4. The Bureau proposed in the *Reimbursement Process PN* “requiring applicants to identify in their application for each location site: (1) Where covered communications equipment or services are located (*e.g.*, address, longitude and latitude, etc.) and documentation supporting the acquisition/existence of such covered equipment or services; and (2) the itemized cost estimates, taken from the Catalog where applicable, that are associated with the removal, replacement, and disposal of covered equipment and services at each site.” Several commenters argued that requiring specific information about equipment at the application stage is burdensome on small carriers and some carriers may not have access to the information. The Rural Wireless Broadband Coalition recommended that instead of requiring such information at the application stage, the Application Request for Funding Allocation should, after the equipment is removed, populate a field for the make, model, and number of units for the removed equipment.

5. The Bureau declines to modify the proposed site-specific information collected. The identification and tracking of site-specific information on covered and replacement communications and services, as well as on cost estimates, helps to ensure funds are spent for the purpose intended and protects against waste, fraud, and abuse. This information assists in determining program eligibility for the removal, replacement, and disposal of Huawei Technologies Company (Huawei) and ZTE Corporation (ZTE) equipment or services obtained on or before June 30, 2020, and facilitates the assessment of applicants’ cost estimates for allocation purposes. The Bureau acknowledges that requiring site-specific information is more burdensome than a self-certification requirement. Including the more detailed site-specific information, however, will ensure that the Reimbursement Program Fund Administrator will be able to properly allocate the \$1.895 billion and will limit the risk that incorrect estimates unnecessarily deplete the Reimbursement Program to the detriment of other applicants. Additionally, any increased costs associated with preparing applications that include site-specific information are potentially eligible for Reimbursement Program support, decreasing the financial burden on applicants when preparing applications. The Bureau, therefore, concludes that the benefits of the site-specific filing

requirement outweigh any burden on the carriers. The Bureau recognizes, however, that the information provided is made in “good faith and that all information provided . . . is true and correct to the best of Applicant’s knowledge,” based on the prior exercise of reasonable due diligence, at the time the application is filed. The Bureau will provide a process for participants to file modifications to their applications if more accurate information subsequently becomes available.

6. *Additional Requested Form Changes.* Several commenters sought changes or clarifications to the proposed information fields included in the Application Request for Funding Allocation. Nokia proposed changes to the questions concerning the use of Open Radio Access Network (Open RAN) technology interface standards by applicants. Specifically, Nokia requested that the fields indicating that applicants selected Open RAN solutions be removed because the fields show a preference for Open RAN. The Bureau disagrees. These questions are merely intended to help the Commission track technology choices by providers and do not suggest or otherwise encourage an applicant to select a particular technology solution. Accordingly, the Bureau fails to see how these questions show a preference for certain types of network architecture and decline to remove these questions.

7. Mavenir Systems, Inc. (Mavenir) separately requested several changes to the proposed information fields. Specifically, Mavenir requested that the Bureau strike the use of “O RAN” to avoid confusion between Open RAN generally and the O RAN Alliance, that it specifies an applicant is using fronthaul Radio Access Network and Core Network, and that the Bureau specifies that an applicant is compliant with O-RAN Alliance 7.2 fronthaul standards rather than the more generally stated “O-RAN Alliance standards.” Additionally, Mavenir suggested two additions to the information fields inquiring whether applicants are using equipment or service compliant with the 3GPP X2 standard and other 3GPP open interfaces, and if so, whether there is an associated fee to make the equipment interoperable or open. To reduce confusion, the Bureau removes the general O-RAN question that was in item 51 on the proposed Application Request for Funding Allocation. Additionally, the Bureau modifies items 53 and 54 to ask applicants if the “equipment or service is compliant with O-RAN Alliance standards, such as O-RAN Alliance 7.2 fronthaul standards.” While the O-RAN Alliance 7.2

fronthaul standard is currently a leading standard, work continues on this developing standard, and updates continue to be published. For example, on June 29, 2021, after Mavenir and others filed their comments, the O-RAN Alliance published a Third White Paper, “O-RAN Minimum Viable Plan and Acceleration towards Commercialization.” In the Third White Paper, the O-RAN Alliance wrote that “[f]uture O-RAN releases will extend the [Minimum Viable Plan] with new features and functionalities as these inputs and priorities evolve.” The Bureau wants to ensure the information collected on the Application Request for Funding Allocation addresses whether the equipment is compatible with any future standards that are adopted as the O-RAN Alliance continues its work. Finally, the Bureau includes the two questions regarding 3GPP X2 standard and open interfaces because these questions are helpful in analyzing technology trends.

8. ADTRAN, Inc. (ADTRAN) suggested incorporating a “country of origin” line item into the Application Request for Funding Allocation, which would support a “buy American” policy. Specifically, ADTRAN requests for the Application Request for Funding Allocation to include a question about the replacement equipment manufacturer’s country of origin. ADTRAN argued that such information collection would be consistent with the Open RAN-related line items. The Bureau finds that including a “country of origin” question on the Application Request for Funding Allocation will further help the Commission track and analyze technology trends without increasing the overall burden on applicants. Accordingly, the Bureau will modify the Application Request for Funding Allocation to include a question about the replacement equipment manufacturer’s country of origin.

9. The Rural Wireless Association (RWA) requested clarifications and additions to the FCC Form 5640 Application Request for Funding Allocation. In particular, RWA argued that form changes were necessary because the Commission had yet to address whether there would be further prioritization within the three levels prioritized by Congress in the Secure and Trusted Communications Networks Act of 2019 (Secure Networks Act). In the *2021 Supply Chain Order*, 86 FR 46995, August 23, 2021, (July 13, 2021), the Commission rejected RWA’s request to provide additional sub-prioritization categories outside of the scheme advanced by Congress. Thus, the Bureau

finds the changes requested by RWA would be inconsistent with the Commission's rules.

10. *Administrative and Form Consistency Changes.* The Bureau will further require, as proposed, that applicants obtain and identify in their applications an FCC Registration Number (FRN) issued by the Commission Registration System (CORES), a Data Universal Numbering System (DUNS) number or where applicable, a DUNS+4 number, and that applicants register with the System for Award Management (SAM) and provide the SAM Commercial and Government Entity (CAGE) Code in their applications. No commenter objected to these proposals. An FRN is an identifying number that is assigned to entities doing business with the Commission. Registration in the SAM provides the Commission with an authoritative source for information necessary to provide funding to applicants and to ensure accurate reporting pursuant to the Federal Funding Accountability and Transparency Act. The DUNS number or, where applicable, the DUNS+4 number, provides necessary banking information to assist the Commission in the electronic payment of funds to program recipients.

11. Separately, to reflect changes adopted in the *2021 Supply Chain Order*, the Bureau modifies the question on the FCC Form 5640 concerning whether the applicant has obtained covered communications equipment or services. The Consolidated Appropriations Act, 2021 (CAA) amended the Secure Networks Act to modify the covered communications equipment and services eligible for the Reimbursement Program. The Commission in the *2021 Supply Chain Order*, implemented these changes by changing its rules to limit equipment and services eligible for the reimbursement to communications equipment or services produced or provided by Huawei and ZTE that are purchased, leased, or otherwise obtained on or before June 30, 2020. Accordingly, the Bureau has made the necessary changes to the FCC Form 5640 to ask the applicant whether it has "previously purchased, leased or otherwise obtained communications equipment or services on the Covered List that were produced or provided by Huawei or ZTE, including their affiliates and subsidiaries, on or before June 30, 2020."

12. The Bureau has also added a question for applicants to indicate whether the cost estimate provided by the applicant includes a technology

upgrade over a comparable replacement. This information will help the Bureau and the Reimbursement Program Fund Administrator identify requests involving technology upgrades. As the Commission stated in the *2021 Supply Chain Order*, "[p]articipants may obtain Reimbursement Program support for an amount equivalent to the cost estimate of a comparable replacement" but noted that if "a participant ultimately decides to upgrade to a higher quality, more advanced, non-comparable replacement, then the program participant will bear the difference in cost between the comparable replacement and the technology upgrade solution chosen." The added question will help identify participants seeking a technology upgrade solution so that the Reimbursement Program Fund Administrator and the Bureau can review the applications accordingly. Participants are reminded that, when seeking a technology upgrade, they will need to include a vendor quote for the comparable replacement in addition to a vendor quote for the upgrade they wish to purchase. Finally, the Bureau has also made minor changes to the language of certain questions to improve clarity and assist applicants.

13. The Bureau strongly encourages interested participants to collect the information needed to prepare the application in advance of the opening of the filing window. Taking proactive steps will facilitate the submission process for applicants and help them identify and overcome potential challenges in advance of a filing deadline. Incomplete applications may be dismissed by the Bureau, which could prevent a provider from participating in the Reimbursement Program.

14. As proposed, the Bureau will use an online filing portal to receive and process Application Requests for Funding Allocation and to coordinate the interactions between program participants, the Reimbursement Program Fund Administrator, and the Bureau. No commenters addressed this approach. Applicants and recipients will electronically submit all filings related to the Reimbursement Program, including the Application Request for Funding Allocation, using an online filing portal. The Bureau will allow applicants to submit applications at either the holding company level or individual/subsidiary level as proposed. The Bureau strongly recommends, however, that applicants file a single application at the holding company level to optimize administrative efficiency by reducing the number of filings requiring processing.

15. Commenters supported the Commission's proposal to consider the use of Excel batch uploads of information to facilitate the completion of applications. To facilitate application preparation and ease the filing burden on applicants, the Bureau will develop the capability to allow batch uploads for targeted and specific portions of the applications. Additionally, some commenters requested that the Commission ensure there will be sufficient support for issues associated with filings in the portal. The Bureau agrees and will make support available to applicants for issues with the portal. Specifically, a Reimbursement Program Fund Administrator helpline and an email address will be designated for Reimbursement Program applicants to address questions related to their application and reimbursement request submissions. The Bureau will also provide additional details on the online filing process through webinars and other outreach activities.

16. *Timing and Length.* The Bureau adopts its proposals related to the Application Request for Funding Allocation filing window. Per § 1.50004(b) of the Commission's rules, the Bureau will announce the opening of an initial filing window in a subsequent public notice when the online filing portal is ready to begin accepting applications. In that public notice, the Bureau will also announce the duration of the initial filing window. Consistent with the *2021 Supply Chain Order*, the Bureau has discretion to set the length of the initial filing window, which is not limited to 30 days and may be longer if the Bureau finds that applicants need help navigating the application filing portal to compile the necessary documentation required for the filing requirements. RWA, in its comments, indicated a 60-day filing window would ensure that applicants could timely file their Application Requests for Funding Allocation. The Bureau agrees with RWA that applicants would benefit from having a longer filing window and will consider this comment when it determines the duration of the filing window. The Bureau is working toward a target date of late October for the opening of the filing window. The Bureau anticipates that the filing window period will run at least 60 days, and potentially longer. Until the filing window closes, the Bureau will allow applicants to initiate, save, submit, and make changes to submitted applications as proposed.

17. In the *2021 Supply Chain Order*, the Commission amended its rules to align eligibility for the Reimbursement Program with the CAA's amendments to



the Secure Networks Act. Consistent with the CAA, as implemented by the *2021 Supply Chain Order*, participation in the Reimbursement Program is limited to providers of advanced communications service with 10 million or fewer customers. As the Commission determined in the *2020 Supply Chain Order*, 86 FR 2904, January 13, 2021, (December 11, 2020), “customers” is interpreted to include customers of the applicant and customers of any affiliate taking advanced communications service from the provider and its affiliates as of the date the application is filed. Eligibility to participate in the Reimbursement Program is limited to “providers of advanced communications service,” which is defined as providers of “high-speed, switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications using any technology with connection speeds of at least 200 kbps in either direction.” A school, library or health care provider, or consortium thereof, providing facilities-based non-commercial educational broadband service connections of at least 200 kbps in one direction would qualify as a provider of advanced communication service for the purposes of the Reimbursement Program and is eligible for reimbursement funding. The Commission in the *2021 Supply Chain Order*, also modified the scope of covered communications equipment and services eligible for Reimbursement Program support consistent with the amendments to the Secure Networks Act by the CAA. The modification limits eligibility for reimbursement to communications equipment or services produced or provided by Huawei or ZTE obtained on or before June 30, 2020.

18. The Bureau will review, with the assistance of the Reimbursement Program Fund Administrator, Application Requests for Funding Allocation to verify Reimbursement Program eligibility as required by the Commission’s rules. The Application Request for Funding Allocation contains questions to assist with Reimbursement Program eligibility verification. For example, each applicant must answer “yes” or “no” as to whether it is a provider of advanced communications service with 10 million or fewer customers. Applicants must also indicate “yes” or “no” to whether they have obtained covered communications equipment or service eligible for Reimbursement Program support on or before June 30, 2020. In addition,

applicants are required to identify the eligible covered communications equipment or service that they intend to remove, replace, and dispose of with Reimbursement Program support by site location.

19. The standard the Commission adopted to determine whether a provider is classified as a provider of advanced communications service is the same standard used to determine whether a provider must file FCC Form 477 to report broadband deployment data, *i.e.*, the provision of a facilities-based broadband connection to an end user with a speed of at least 200 kbps in either direction. Accordingly, as part of the Bureau’s internal verification process, it will cross-check applicants against the list of FCC Form 477 filers as of the most recent filing deadline. Applicants not identified on the most recent FCC Form 477 filer list may need to provide additional information to support Reimbursement Program eligibility in response to a Reimbursement Program Fund Administrator request for information.

20. The Bureau finds the validation of eligibility using FCC Form 477 filing information, coupled with requesting additional information evidencing eligibility where an entity has not recently filed an FCC Form 477, appropriate in our efforts to ensure the Reimbursement Program supports providers of advanced communications services with 10 million or fewer customers and protect against waste, fraud, and abuse.

21. As required by the Secure Networks Act and the Commission’s rules, the Application Request for Funding Allocation requires applicants to submit initial estimates of costs reasonably incurred for the permanent removal, replacement, and disposal of covered communications equipment or services. Both the Secure Networks Act and the Commission’s rules require applicants to provide cost estimates in their applications. The Secure Networks Act specifically states that the “Commission shall require an applicant to provide an initial reimbursement cost estimate at the time of application, with supporting materials substantiating the costs,” which the Commission “may require an applicant to . . . update,” and “submit additional supporting materials.”

22. To help applicants submit cost estimates with their applications, the Commission permitted applicants to rely on estimated costs identified in the Catalog, which contains categories of quantifiable costs typically incurred in the removal, replacement, and disposal process. For costs not covered by the

Catalog, or if applicants want to use a cost estimate that differs from the Catalog, the applicant can instead provide an individualized cost estimate supported by documentation (*e.g.*, vendor quotes). The finalization of the Catalog is discussed in Part III.B of the PN, but here the Bureau addresses the proposals and comments related to the submission of cost estimates generally.

23. *Technology Upgrades.* In the *2021 Supply Chain Order*, the Commission clarified that “the ‘costs reasonably incurred’ standard . . . make[s] providers responsible for the additional incremental cost of funding upgrades that exceed what is reasonably necessary to transition to a comparable replacement.” The Commission acknowledged that whether an upgrade is a “reasonable, comparable replacement necessary for the transition” to a replacement “will likely depend on the facts in each case.” The Commission directed the Bureau, with the assistance of the Reimbursement Program Fund Administrator, to “first consider whether the cost is typically incurred when transitioning from covered communications equipment and services to a replacement.” Other factors the Bureau may consider include the “costs in relation to the alternative equipment and services and the capabilities and functions performed by the replacement equipment and service as compared to the equipment and services removed.”

24. As provided in the *2021 Supply Chain Order*, participants may obtain Reimbursement Program support for an amount equivalent to the cost estimate of a comparable replacement. Participants electing to upgrade their equipment or service in excess of the costs of a comparable replacement, however, bear the difference in cost between the comparable replacement and the technology upgrade. Participants seeking funding for a technology upgrade in excess of the costs of a comparable replacement will be required to provide price quotes for the comparable replacement with their Application Request for Funding Allocation—they may not rely on the cost estimates contained in the Catalog—and they must also separately certify that the cost estimate is made in good faith.

25. While the Commission encourages providers to upgrade their networks, Congress directed the Commission to “preclude network upgrades that go beyond the replacement of covered communications equipment or services from eligibility.” Providers are responsible for the additional incremental costs of funding upgrades



that exceed what is reasonably necessary to transition to a comparable replacement. In the *2021 Supply Chain Order*, the Commission found, as a general matter, expenses incurred replacing microwave backhaul with fiber backhaul or replacing last-mile fixed wireless links with fiber-to-the-premises (FTTP) are not reasonably necessary to transition to a comparable replacement. Thus, consistent with the *2021 Supply Chain Order*, while the Bureau will view fiber replacements as a technology upgrade, not a reasonable, comparable replacement, Reimbursement Program participants may be reimbursed for a portion of their expenses up to the difference in cost between a comparable replacement and the fiber upgrade. However, additional sources of Federal funding outside the scope of Reimbursement Program may be available to applicants for fiber deployments which could account for costs that exceed the costs of a comparable replacement. The Bureau encourages providers to explore all available funding options to upgrade their networks with fiber. Additionally, the Commission found that handset upgrades and certain other customer-premises equipment (CPE) are ineligible for reimbursement because replacing such handsets is not reasonably necessary to the removal, replacement, and disposal of covered communications equipment or service.

26. *Average Catalog Cost Estimate.* Separately, the Bureau adopts its proposals in the *Reimbursement Process PN* related to the submission of cost estimates for the purposes of granting funding allocations. The Bureau adopts its proposal to base its evaluation of applicant's cost estimates on the average between the minimum and maximum range of estimated costs for a particular itemized expense listed in the Catalog, rather than allowing applicants to choose any amount within the cost estimate range. The preliminary catalog included a low-end and high-end range of cost estimates for each particular itemized expense identified to help develop a record on reasonable expenses associated with the relevant expenses. In addition to a range of cost estimates, the final Catalog now includes the average between the low-end and high-end range of cost estimates for each itemized expense identified. Applicants relying on Catalog cost estimates for their applications will select the predetermined average cost estimate for a particular itemized expense identified in the Catalog as opposed to providing a cost estimate that is within the range

of cost estimates. This approach will reduce the likelihood of applicants overestimating costs, and will thus minimize overallocation of limited funding to the detriment of other Reimbursement Program participants. Some commenters object to the use of average cost estimates, arguing that equipment types within the ranges are too varied, and that applicants will regularly exceed the averages. The Bureau rejects this argument. If an applicant finds that a Catalog cost estimate average does not fully account for its costs, or if a cost category is not identified in the Catalog, applicants are permitted to provide individualized cost estimates based on supporting documentation (e.g., vendor quotes) and certify the cost estimate is made in good faith. This approach balances the Commission's goals of protecting against waste, fraud, and abuse while facilitating the production of estimates of costs reasonably incurred by applicants.

27. As indicated in this document, the Bureau will also collect cost-estimate information on a site-specific basis because it enables the review of cost estimates for reasonableness and promotes clear identification and tracking to assist with the invoicing process, as well as protecting against waste fraud and abuse. Applicants may, however, report in their applications network-wide costs, such as disposal costs or software upgrades, that apply to several site locations.

28. Nokia asks us to permit applicants to submit cost estimates that are based on reasonable costs incurred by the applicant over an 18-month project timeline. The Bureau declines to accept a cost estimate covering such a lengthy period of time. The removal, replacement, and disposal term provided for in the Secure Networks Act and the Commission's rules ends one year after the participant receives its initial disbursement of support. Accordingly, participants should submit cost estimates accounting for a one-year term as currently provided under the Commission's rules that commences when the participant receives its initial draw down disbursement.

29. The Commission's rules direct the Bureau to review applications to determine completeness, program eligibility, and the reasonableness of cost estimates. The Bureau must "approve or deny" applications no later than 90 days after the close of the relevant filing window. If additional time is needed to review the applications, the Bureau may extend the deadline up to an additional 45 days. Consistent with the Secure Networks

Act, the Commission's rules state "[i]f the . . . Bureau determines that an application is materially deficient (including by lacking an adequate cost estimate or adequate supporting materials), the . . . Bureau shall provide the applicant a 15-day period to cure the defect before denying the application." The Bureau sought comment on additional facets of the review process and received limited comment on the opportunity to cure and the filing of amendments during the 90-day review period as discussed herein.

30. The 90-day review period will commence on the next business day following the close of the filing window, per the Commission's rules. As proposed, after the filing window closes and the 90-day review period commences, the Reimbursement Program Fund Administrator will conduct an initial review of the applications to help the Bureau determine whether the applications are initially considered eligible and acceptable for filing and to evaluate the gross estimate demand contained in those applications. The Bureau will then issue a public notice "announcing those applications initially found eligible" and acceptable for filing, and those applications considered materially deficient. The Reimbursement Program Fund Administrator will proceed with processing those applications considered acceptable. Applicants filing applications found unacceptable for filing will need to amend and provide additional information demonstrating program eligibility before the Reimbursement Program Fund Administrator can proceed with processing their applications as acceptable for filing.

31. *15-Day Opportunity to Cure.* As required by the Secure Networks Act and the Commission's rules, the Bureau will give applicants whose applications are found materially deficient a 15-day opportunity to cure the deficiency before their application is denied. As proposed, the Bureau will individually notify each applicant that its application is deficient and that it has 15 days to cure all of the identified deficiencies. Such notice will be distinct from the public notice announcing applications accepted for filing and applications with material defects. RWA questions whether the 15-day cure period starts on the date of the public notice release or the individual notification date. Accordingly, the Bureau clarifies the 15-day cure period will commence on the date of the individual email notification is sent by the Commission and received by the applicant.

32. The Bureau also broadly interprets the statutory 15-day opportunity to cure as providing all applicants an opportunity to cure material defects that would lead to the denial or partial denial of an Application Request for Funding Allocation, even filers of applications that were initially found acceptable. In those instances, should the Bureau subsequently find, after further review, that the application is materially deficient and subject to denial, the applicant will be afforded the 15-day cure period.

33. *Requests for Additional Information.* During the application review process there may be multiple instances where the Reimbursement Program Fund Administrator seeks additional information from an applicant prior to an application being granted or denied. These additional opportunities to amend an application or provide supplemental information prior to any official decision will ensure that all applicants have sufficient opportunities to present the most complete application seeking reimbursement, and the Bureau clarifies that these opportunities are separate and distinct from, and do not count against, the formal 15-day opportunity to cure period. The Bureau finds this clarification of the process mitigates RWA's concerns of having only a single 15-day cure period.

34. *Amendments during the Application Review Period.* As proposed, the Bureau will allow applicants to make amendments to the filings during the 90-day review period. Additionally, the Bureau adopts its proposal to deny, as a general matter, amendment requests to an Application Request for Funding Allocation that would result in an increase to the total cost estimate. The Bureau therefore denies RWA's request to allow increases to applicant cost estimates. Reimbursement Program support is limited and subject to prioritization requirements should demand exceed supply. Allowing amendments to increase cost estimates would hinder the review of applications within the statutory 90-day review period, as the Reimbursement Program Fund Administrator would need to restart its cost estimate review for reasonableness with each amendment filed. Moreover, amendments increasing total cost estimate demand could ultimately delay the issuance of allocations to all participants because the Bureau and Reimbursement Program Fund Administrator will not be able to determine if prioritization is necessary until all applications are processed and the last application is granted.

35. The Bureau also rejects Nokia's request to allow applicants to build in an overrun allowance of 10% to account for unexpected costs. Nokia asks that applicants receive a funding allocation for 10% more than their reported cost estimates. Applicants are required by the Commission's rules to provide good-faith cost estimates for removal, replacement, and disposal. Applicants are thus encouraged to provide cost estimates that are as accurate as possible based on all available information. Allowing applicants to build in overrun allowances would undermine the goal of the Reimbursement Program of efficiently allocating funding support to help as many eligible providers as possible.

36. *45-Day Extension Period.* As proposed, and consistent with the Secure Networks Act, the Bureau directs the Reimbursement Program Fund Administrator to advise the Bureau, based on its initial review of the applications filed, whether to extend the 90-day deadline for granting or denying applications by up to an additional 45-day period. The Reimbursement Program Fund Administrator shall indicate whether it needs additional time to review the applications based on the number and complexity of the applications received. If the Bureau finds an extension justified, it will issue a public notice announcing the extension of the 90-day review period by a specified duration, not to exceed 45 days.

37. *Allocation.* Based on the cost estimates provided by applicants, the Reimbursement Program Fund Administrator will recommend to the Bureau's consideration a funding allocation for each approved application. The Bureau will review each recommendation and, following any modifications to cure deficiencies following the 15-day cure period, will either grant or deny the application and proceed with issuing the allocation. Should total allocation demand exceed the funding available, the Reimbursement Program Fund Administrator's allocation recommendations will be adjusted in accordance with the prioritization scheme required by the amended Secure Networks Act and adopted by the Commission in the *2021 Supply Chain Order*.

38. *No Allocation Adjustments.* As directed by the Commission in the *2020 Supply Chain Order*, "the funding amount allocated represents the maximum amount eligible for draw down by an eligible provider unless a subsequent funding allocation is made." Accordingly, the Bureau emphasizes

that once it makes a funding allocation determination, it will not adjust the funding allocation amount even if there is a change in the participant's plans or if actual costs exceed estimated costs. To the extent a participant requires funding in excess of its allocated amount, the participant will be required to file a new application in a subsequent filing window, if and when such a filing window is announced. The Bureau will only issue funding disbursements for reasonable expenses actually incurred.

39. *Allocation Announcement Schedule.* The Bureau adopts its proposal to periodically release public notices announcing funding recipients and the amount of their funding allocations as well as to notify recipients directly by email. No commenter filed comments on this proposal. This approach ensures administrative efficiency while also providing transparency to Reimbursement Program applicants and recipients, as well as the public.

40. Pursuant to the Commission's rules, after eligible providers receive funding allocations and incur actual costs, they must file reimbursement claims along with supporting invoices and other cost documentation to draw from their allocation. Each Reimbursement Program recipient must file at least one reimbursement claim within one year of the approval of its Application Request for Funding Allocation. Failure to file within the year will result in the expiration of the funding allocation and the provider will be unable to receive any reimbursement funds from the allocation as the unused funds would revert back to the Reimbursement Program. The Commission would be able to then reallocate to other applications in a future filing window any funds from the expired allocation. In this section, the Bureau adopts proposals related to the filing of reimbursement claims and extensions of the reimbursement claim deadline permitted under the Commission's rules.

41. *Filing Reimbursement Claim Requests.* The Bureau adopts several of its proposals related to processing recipients' requests for reimbursement and will finalize the FCC Form 5640 Reimbursement Claim Request as proposed. Additionally, the Bureau adopts its proposal to allow recipients to submit multiple Reimbursement Claim Requests as they incur expenses throughout the reimbursement period. The Bureau, with the assistance of the Reimbursement Program Fund Administrator, will review and grant or deny Reimbursement Claim Requests for actual costs reasonably incurred.

42. The Bureau adopts the approach for processing Reimbursement Claim Requests proposed in the *Reimbursement Process PN*. Accordingly, using the features available in the online filing portal, recipients will be required to link actual costs incurred and the supporting invoice documentation to their itemized cost estimates previously filed with the Bureau to complete the claim. Recipients must submit invoices through the online portal as attachments to their Reimbursement Claim Requests. With each invoice submitted, recipients must provide specific details related to the invoice (vendor name, date issued, description of contents, etc.) to assist reviewers in linking invoices to specific itemized cost estimates. Further, recipients seeking disbursements must have previously provided a vendor and supplier quote associated with the invoice included with the Application Request for Funding Allocation before submitting the Reimbursement Claim Request. Recipients who have not yet provided a vendor and supplier quote associated with the invoice because they relied on the Catalog cost estimates when completing their Application Request for Funding Allocation will need to file a modification before submitting the Reimbursement Claim Request. The Reimbursement Program Fund Administrator will not review Reimbursement Claim Requests that rely on invoices not substantiated by a corresponding quote previously filed.

43. Pursuant to the Commission's rules and the *2020 Supply Chain Order*, recipients may seek reimbursement only for actual expenses incurred during the period beginning on April 17, 2018, and ending at the expiration of the one-year removal, replacement, and disposal term. Consistent with the *2020 Supply Chain Order*, the Bureau will allow providers to obtain reimbursement for costs reasonably incurred prior to the creation and funding of the Reimbursement Program, but on or after April 17, 2018, for the removal, replacement, and disposal of covered equipment and services. The Bureau must authorize the payments from the Reimbursement Program fund in the United States Treasury to providers that have submitted valid claims for reimbursement.

44. RWA requests the Bureau allow the filing of requests "beyond the allocated funds so that the [Reimbursement Program] Fund Administrator can approve costs even though there may not yet be funding to pay such invoices." The Bureau agrees, and the filing portal system will allow recipients to file Reimbursement Claim

Requests, even when the amount requested exceeds the amount allocated to the recipient, up until the deadline for filing Reimbursement Claim Requests has expired. These requests will, however, remain in pending status if there is insufficient funding to grant the requests in full.

45. Nokia requests that the Commission expedite disbursements to contractors involved in creating cost estimates for Application Requests for Funding Allocation that are initially accepted for filing prior to allocating the funds to all applicants. Specifically, it argues that expedited disbursements for costs associated with application preparation "will relieve financial stresses on the industry and encourage more complete and accurate applications." The Commission's rules, however, do not allow for disbursements prior to a funding allocation. Further, the Commission did not establish a separate disbursement process to reimburse for expenses incurred for applications initially found acceptable for filing. Providing a disbursement at this early stage would also trigger the recipient's obligation to complete the removal, replacement, and disposal process within one year and many applicants would be unable to meet that deadline. That said, costs associated with preparing applications are potentially eligible for reimbursement and applicants may file reimbursement claims for such costs once an allocation is issued.

46. *Reimbursement Claim Request Deadline*. All Reimbursement Claim Requests must be filed no later than 120 days following the expiration of the removal, replacement, and disposal term. Prior to the expiration of the claim request deadline, recipients under the Commission's rules are permitted to request and, if timely requested, will automatically receive a 120-day extension. RWA notes that the one-year removal, replacement, and disposal term can be extended and argues that the corresponding 120-day reimbursement claim deadline should also be extended if the underlying one-year term is extended. The Bureau agrees and confirms that if the Commission or the Bureau extends the one-year removal, replacement, and disposal term, the corresponding 120-day reimbursement claim deadline will also be extended and start from the new extended term date expiration.

47. Finally, as required by the Commission's rules, after the Reimbursement Claim Request filing deadline, the remaining unclaimed amounts in the allocation will expire. The remaining funds in the expired

allocation will be available for Commission reallocation in a future filing window. However, as proposed in the *Reimbursement Process PN*, a timely submitted extension request, while pending, will toll the expiration of the funding allocation.

48. *Amendments, Modifications, and Administrative Updates*. In the *Reimbursement Process PN*, the Bureau sought comment on proposals to allow program participants to update information on file with the Commission through the filing of amendments, modifications, and/or administrative updates. The Bureau did not receive comments regarding modifications or administrative updates. The Bureau did, however, receive comments objecting to the general denial of amendments to the Application Request for Funding Allocation that would increase cost estimate submissions, as discussed elsewhere herein. Accordingly, the Bureau will allow participants to amend, modify, and file administrative updates using the online filing portal.

49. To file an amendment the participant must notify the Reimbursement Program Fund Administrator of its intent to amend its application through the Reimbursement Program Fund Administrator Help Desk. Notification of an intent to amend through the Reimbursement Program Fund Administrator Help Desk is necessary to unlock the underlying application in the online filing portal to allow for the filing of an amendment. This notice of intent to amend alerts the Reimbursement Program Fund Administrator to pause application processing pending the filing of additional changes that may impact the review process. Amendment filings are only permitted for underlying filings that are in a pending status.

50. The Bureau also will allow modification filings after an application is granted. For a granted Application Request for Funding Allocation, the Bureau will allow recipients to submit modification filings to change itemized expenses and locations identified on their filings and to provide vendor and supplier quotes for review by the Reimbursement Program Fund Administrator. The Bureau reiterates that if the modification filing would change the cost of the project, it will not alter the funding allocation issued. Additionally, participants are allowed to file administrative updates for routine, non-material changes to filings such as changes to the applicant's contact information (e.g., address, phone number, and contact name). The online filing portal will accept and

automatically process administrative updates once filed.

51. *Notifications of Changes in Ownership.* Recognizing that the Reimbursement Program will be administered over multiple years and changes in ownership may occur, the Bureau adopts its proposal to adapt the online filing system to account for changes in ownership, including changes due to bankruptcy. Specifically, the Bureau will institute a streamlined process whereby, post-consummation, the recipient of record will file a notification signed by both parties to the transaction that includes an explanation of the ownership changes. In the event of an involuntary change of control and/or ownership, such as, but not limited to, the appointment of a trustee in bankruptcy or a receiver, the process shall include a mechanism for a rightful recipient to file the notification without the signature of the other party to the transaction upon a showing of appropriate documentation regarding the change of control and/or ownership. The Bureau, with the assistance of the Reimbursement Program Fund Administrator, will determine the amount of the funding allocation remaining, *i.e.*, the amount not yet claimed and disbursed through the reimbursement claim process, and how to handle transactions involving the acquisition of discrete network components, *e.g.*, the sale of a portion of the network and not the entire network. Commenters support this approach. The Bureau notes, however, that while it is not requiring prior approval for new owners to participate in the Reimbursement Program, the new owners would still have to be eligible to participate in the program to receive funding under the Commission's rules. Providers with more than 10 million customers are not eligible to participate in the Reimbursement Program.

52. Consistent with the Secure Networks Act, the Commission's rules require Reimbursement Program participants to complete the removal, replacement, and disposal process within one year from the initial disbursement of funds. The initial disbursement is deemed to occur on the date on which the Commission first distributes reimbursement funds to the recipient. Participants must file to receive their initial disbursement within one year of receiving the funding allocation approval.

53. Both the Secure Networks Act and the Commission's rules authorize extensions of the one-year removal, replacement, and disposal term. Specifically, under § 1.50004(h)(1) of the Reimbursement Program rules, the

Commission may grant a general extension of the one-year term by a period of six months to all Reimbursement Program recipients if the Commission: (1) Finds the supply of replacement communications equipment or services needed by the recipients to achieve the purposes of the Reimbursement Program is inadequate to meet the needs of the recipients; and (2) provides notice and detailed justification for granting the extension to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate. In addition, the Bureau may grant individual extensions of time for a period not to exceed six months on a case-by-case basis. The Commission has interpreted the Secure Networks Act to allow grant of multiple individual extensions of time to a participant. To grant an extension, the Bureau must find that, due to no fault of the recipient, such recipient is unable to complete the permanent removal, replacement, and disposal by the end of the term.

54. Nokia requested a blanket 6-month extension of time, noting that many applicants will have difficulty adhering to a one-year deadline for removal, replacement, and disposal because, under normal circumstances, the process would take approximately one to three years. Additionally, Nokia notes that a high number of carriers attempting to replace equipment during the same period of time may delay the process. The Competitive Carriers Association (CCA) also requested a blanket 6-month extension, raising a similar concern in its comments, recognizing that carriers are "managing labor shortages, including limited availability of skilled engineers and 12 tower crews, and an extension will give carriers a more realistic opportunity to navigate staffing challenges." Copper Valley Wireless, Inc. (Copper Valley Wireless) asserts that the unique issues facing Alaskan providers will result in multiple extension requests. Thus, Copper Valley Wireless requests successive blanket extensions for Alaskan providers.

55. The Bureau finds these requests for an extension of the term for all future participants are outside the scope of the *Reimbursement Process PN*, and it, therefore, declines to address these requests. In addition, the Bureau finds it premature to consider a general extension before the Reimbursement Program is even launched and any removal, replacement, and disposal terms are established. Granting an across-the-board extension at this

juncture is counter to Congress' intent of having a one-year term.

56. In addition, some commenters have expressed concern that the Commission appears to favor O-RAN replacement options and requests that the Commission not grant an applicant's extension request solely because of the replacement choice. As the Bureau did not seek comment on proposals related to granting term extensions, it finds these comments are also outside the scope of the *Reimbursement Process PN*. These comments more accurately relate to the *2021 Supply Chain Order*, where the Commission said that some replacement options, such as O-RAN or virtual RAN, may require additional time for system integration. While the Bureau recognizes it may take longer to implement certain technological solutions, that is only one factor among many that could justify an extension. Regardless, the Bureau disagrees that the Commission has demonstrated a preference for O-RAN technology solutions as compared to any other solution.

57. To help mitigate against waste, fraud, and abuse, and consistent with the Secure Networks Act, the Commission required recipients to submit status updates, spending reports, and final certifications and updates. The Bureau takes this opportunity to reiterate these requirements as set forth in the Secure Networks Act and the Commission's rules.

58. *Status Updates.* The Secure Networks Act requires that "[n]ot less frequently than once every 90 days beginning on the date on which the Commission approves an application for a reimbursement under the Program, the recipient of the reimbursement shall submit to the Commission a status update on the work of the recipient to permanently remove, replace, and dispose of the covered communications equipment or services." The Secure Networks Act also provides that "[n]ot earlier than 30 days after the date on which the Commission receives a status update," the Commission "shall make such status update public on the website of the Commission."

59. In the *2020 Supply Chain Order*, the Commission required recipients to file the first status updates within 90 days of receiving their funding allocations. In the status updates, recipients are required to report on the efforts undertaken and challenges encountered in permanently removing, replacing, and disposing of their covered communications equipment or services. Recipients shall also report in detail on the availability of replacement equipment in the marketplace so the

Commission can assess whether a general, six-month extension permitted by the statute is appropriate. Each status update must include a certification that affirms the information in the update is accurate. The obligation to file status updates expires after the recipient has notified the Commission of the completion of the permanent removal, replacement, and disposal of the covered communications equipment or service pursuant to a final certification. Status updates will be public, consistent with the Commission's rules, and the Commission directed the Bureau to post on the Commission's website the status update filings within 30 days of submission.

60. *Spending Reports.* The Secure Networks Act requires Reimbursement Program recipients to submit "reports regarding how reimbursement funds have been spent, including detailed accounting of the covered communications equipment or services permanently removed and disposed of, and the replacement equipment or services purchased, rented, leased or otherwise obtained, using reimbursement funds." In the *2020 Supply Chain Order*, the Commission required Reimbursement Program recipients to file spending reports within 10 calendar days after the end of January and July, starting with the recipient's initial draw down of disbursement funds and terminating once the recipient has filed a final spending report showing the expenditure of all funds received as compared to the estimated costs submitted. The Commission directed "program participants to submit the final spending report no later than 60 days following the expiration of the program participant's reimbursement claim deadline." The Bureau is required to make spending reports, except for detailed accounting information, available to the public via a portal on the Commission's website.

61. *Final Certifications.* Within 10 days following the expiration of the removal, replacement, and disposal term, recipients must file a final certification with the Commission. The final certification must indicate whether the recipient has fully complied with all terms and conditions of the program, the commitments made in its application, and the timeline submitted. The final certification must also indicate whether the recipient has permanently removed covered communications equipment and services that were in its network as of the date of application submission. Pursuant to the Secure Networks Act and the *2020 Supply Chain Order*, if an applicant indicates

that it has not fully complied with all terms of program participation, the applicant must file an updated final certification "when the recipient has fully complied." Program participants failing to timely submit a final certification or updated final certification may be subject to forfeitures and other penalties.

62. The Secure Networks Act directed the Commission to make public on the Commission's website status updates submitted by recipients under the Reimbursement Program. In the *2020 Supply Chain Order*, the Commission directed the Bureau to make filed spending reports available to the public through an online portal. The Commission also directed us to treat as presumptively confidential detailed accounting information on the covered communications equipment or services subject to removal, replacement, and disposal, and the replacement equipment or services being reimbursed, and to withhold such disaggregated information from routine public inspection. The Commission also directed us to treat as presumptively confidential "[o]ther information, such as location of the equipment and services; removal or replacement plans that include sensitive information; the specific type of equipment or service; and any other provider specific information," which the Commission found would likely qualify as trade secrets under the Freedom of Information Act (FOIA) the public release of which could raise security and confidentiality concerns. However, as a condition of receiving funding, the Commission required Reimbursement Program recipients to provide consent to allow vendors or contractors used by the recipient to release confidential information to an auditor, reviewer, or other representative as part of the auditing process, which is discussed in further detail in Part III.A.13 of the PN.

63. The Bureau will treat certain specified information submitted by Reimbursement Program participants as public or presumptively confidential consistent with the Secure Networks Act, the Freedom of Information Act, and the Commission's rules. As proposed in the *Reimbursement Process PN*, and consistent with the Commission's rules, the Bureau will make publicly available, through an online search portal, general and summary information submitted by participants. This includes the name of the applicant who submitted a FCC Form 5640, Application Request for Funding Allocation, and the funding amount requested. This also includes the Reimbursement Program

participants selected for funding allocation and the funding amount awarded. Consistent with the *2020 Supply Chain Order*, the Bureau will also make public on the Commission's website recipients' filed spending reports. The Bureau finds that the public interest is best served by making this information available to the public to ensure transparency and accountability.

64. Commenters agreed with the proposal to treat certain sensitive information collected as part of the Program as presumptively confidential and withhold that information from routine public inspection. For example, ADTRAN "fully supports the proposal to maintain the confidentiality of proprietary information with regard to the prices of the replacement equipment and services." ADTRAN asserts that "such information constitutes trade secrets," and ADTRAN "takes steps to protect that information by requiring its customers (and potential customers) to enter into non-disclosure agreements to maintain confidentiality." ADTRAN agrees that "information on the specific replacement equipment and location of that equipment . . . should not be made publicly-available, particularly because such information on what is critical infrastructure could provide roadmaps to malefactors." RWA agrees with the proposal to treat as presumptively confidential and withhold from public inspection information including "detailed accounting information," "location of the equipment and services; removal or replacement plans that include sensitive information; the specific type of equipment and service; and any other provider specific information that qualifies as trade secrets under the Freedom of Information Act."

65. Accordingly, as contemplated by the *2020 Supply Chain Order*, and proposed in the *Reimbursement Process PN*, the Bureau finds that certain information likely constitutes confidential commercial or financial information or trade secrets under the FOIA, and consistent with the *2020 Supply Chain Order*, and the Commission's rules, the Bureau will treat this information as presumptively confidential and will withhold from routine public inspection such information, including:

- Detailed accounting information on the covered communications equipment or services removed, replaced, and disposed of, and the replacement equipment or services purchased, rented, leased, or otherwise obtained using Reimbursement Program funds;

- Vendor price quotes submitted with the FCC Form 5640, Application Request for Funding Allocation, or in a Modification filing;

- Invoices submitted with the FCC Form 5640, Reimbursement Claim Requests;

- Equipment or services location, including address, latitude/longitude, etc.;

- Removal or replacement plans that include sensitive information;

- Specific equipment or service type;
- Other provider-specific information; and,

- Specific timeline for the permanent removal, replacement, and disposal of covered communications equipment and services.

The Bureau finds, consistent with the *2020 Supply Chain Order*, that this information would likely qualify as confidential commercial or financial information or trade secrets under the Freedom of Information Act and therefore should be withheld from routine public inspection.

66. Finally, the Bureau adopts the approach proposed in the *Reimbursement Process PN*, to allow filers uploading attachments to the online portal to categorize whether the attachment is “confidential” or “public.” RWA argues that “anything attached to the FCC Form 5640 by an applicant that is clearly marked confidential should be treated as such and withheld from public inspection.” The Bureau clarifies that participants may submit requests to treat documentation as confidential information to be withheld from public inspection; however, such requests must be consistent with FOIA and the Commission’s rules. Requests for confidential treatment that are overbroad or otherwise inconsistent with our rules will be rejected. Attachments designated as “confidential” will be withheld from routine public inspection, subject to FOIA and the Commission’s rules, whereas attachments designated as “public” may be made publicly available.

67. The Secure Networks Act directed the Commission to “take all necessary steps to avoid waste, fraud, and abuse with respect to the Program,” including “regular audits and reviews of reimbursements under the Program to confirm that recipients of such reimbursements are complying with this Act,” and “random field investigations to ensure that recipients of reimbursements under the Program are performing the work such recipients are required to perform.” In the *2020 Supply Chain Order*, the Commission

adopted a number of measures as directed by the Secure Networks Act to combat waste, fraud, and abuse, including requiring audits, reviews, and field inspections. In particular, the Commission directed the Office of the Managing Director (OMD), or a third-party identified by OMD, to prepare a system to audit Reimbursement Program recipients to ensure compliance with the Commission’s rules. Recipients are subject to audits and other investigations to evaluate their compliance with the statutory and regulatory requirements for the program. To facilitate audits and field investigations, recipients must provide consent to allow vendors or contractors used by the recipient to release confidential information to the auditor, reviewer, or other representative. Recipients must also allow any representative appointed by the Commission to enter the premises of the recipient to conduct compliance inspections.

68. In the *2021 Supply Chain Order*, the Commission delegated financial oversight of the Reimbursement Program to OMD, in coordination with the Bureau and the Reimbursement Program Fund Administrator, to ensure that all financial aspects of the program have adequate internal controls. OMD, in coordination the Bureau, may issue additional directions to the Reimbursement Program Fund Administrator and program participants in furtherance of its responsibilities. The Bureau will continue to work with OMD, any third-party identified by OMD, and the Reimbursement Program Fund Administrator to develop an audit, review, and field investigations process for the Reimbursement Program to protect against waste, fraud, and abuse. Pursuant to the *2020 Supply Chain Order*, participants must allow any representative appointed by the Commission to enter the participant’s premises to conduct compliance inspections so, at a minimum, the audit process may include site visits to participant’s premises to conduct these compliance inspections.

#### *B. Catalog of Eligible Expenses and Estimated Costs*

69. In this section, the Bureau adopts a final Catalog which applicants may rely on, where applicable, when submitting cost estimates in their Application Request for Funding Allocation, and the Bureau provides additional guidance regarding whether certain costs are reasonably incurred and may be reimbursable under the Reimbursement Program.

70. Section 4(d)(1) of the Secure Networks Act requires the Commission to “develop a list of suggested replacements” for covered equipment and services and for applicants to submit “initial reimbursement cost estimate[s] at the time of application.” To accomplish this objective, the Commission delegated authority to the Bureau to develop and finalize a Cost Catalog in the *2020 Supply Chain Order*. The Commission’s rules provide that eligible providers may rely upon the predetermined estimated costs identified in the Catalog when submitting their cost estimates with their requests for funding allocation. The Bureau contracted with Widelity Inc. (Widelity) to produce a preliminary catalog containing a non-exhaustive list of cost categories and a range of cost estimates for communications equipment and services potentially eligible for reimbursement. Widelity developed the preliminary catalog based on a series of confidential interviews with communications industry stakeholders to understand the process and costs associated with removing, replacing, and disposing of covered communications equipment and services. In the *Catalog PN*, the Bureau sought comment on the preliminary catalog, the suggested ranges of estimated costs and cost categories identified therein, and how the Catalog should inform the Reimbursement Program. Widelity subsequently conducted a thorough review of the preliminary catalog, based on comments received in response to the *Catalog PN*, and conducted additional engagement with communications industry stakeholders and the Bureau, resulting in additional improvements to the Catalog.

71. After considering comments received in response to the *Catalog PN*, and in consultation with Widelity, the Bureau revises and finalizes the Catalog as set forth in this document. The final Catalog includes as an attachment a chart indexing changes from the preliminary catalog to the final Catalog. In particular, the Bureau added an index number to reference line item cost categories, clarified certain expenses that it finds are highly variable, clarified units of measurement, clarified cost categories and descriptions, amended certain ranges of cost estimates, and corrected typographical errors. For the reasons discussed in this document, the Bureau adopts the Catalog in Appendix C of the PN for use in the Reimbursement Program. The Catalog will be made available on the Commission’s website, and the line

items and cost estimate averages taken from the ranges identified in the Catalog will be incorporated into the online filing portal for use by applicants when completing the FCC Form 5640, Application Request for Funding Allocation.

72. The Catalog identifies cost categories and a range of estimated costs that providers of advanced communications services would typically incur when removing, replacing, and disposing of covered communications equipment or service. The Bureau emphasizes the Catalog is not intended to be a definitive or exhaustive list of all reimbursable expenses but rather is an additional tool to help applicants with their application submissions. Inclusion or exclusion in the Catalog of a particular category of costs should not be interpreted as a determination whether the expense will be eligible for reimbursement. Applicants may reference the line item cost estimates identified in the Catalog when submitting their initial cost estimates. Consistent with the Secure Networks Act, applicants relying on the Catalog when requesting a funding allocation will still be required to provide supporting materials substantiating their cost estimates with documentation such as quotes or invoices before receiving a disbursement of funds for reimbursement. To the extent that certain reimbursable expenses are not explicitly listed in the Catalog or certain cost categories do not fully account for an applicant's reimbursable expenses, applicants may request reimbursement by submitting individualized cost estimates, with supporting materials substantiating the costs. The cost estimates identified in the final Catalog do not guarantee the ultimate disbursement of funds for any individual expense. Participants' requests for reimbursement will be evaluated based on supporting documentation regardless of whether the initial cost estimates were based on the Catalog or individualized cost estimates.

73. As noted in this document, cost estimates based on the Catalog will be the average of the low- and high-end range of cost estimates identified in the Catalog. If an applicant believes a cost estimate identified in the Catalog does not fully account for its specific circumstances or a cost category is not identified in the Catalog, the applicant may provide an individualized cost estimate. Applicants providing individualized cost estimates will be required to submit additional supporting documentation (e.g., vendor

quotes) and certify that the cost estimate is made in good faith. All cost estimates are subject to review by Commission staff, with the assistance of the Reimbursement Program Fund Administrator, to ensure that an expense is eligible for reimbursement under the costs reasonably incurred standard.

74. The Bureau received 13 comments in response to the *Catalog PN*, including comments addressing the preliminary catalog. Comments addressing the preliminary catalog were generally favorable; however, commenters also proposed changes to the preliminary catalog. Commenters requested clarifications to the units of measurement for particular cost estimates, requested modifications or clarifications to certain cost categories, and requested modifications to certain ranges of cost estimates. Commenters proposed changes to the access layer, distribution layer, and core layer equipment, as well as software and services. Commenters also requested clarification on whether certain costs are reimbursable under the Reimbursement Program. The Bureau addresses these comments in the following. The Bureau also highlights modifications to the Catalog proposed by Widelity based on its own thorough review of the preliminary catalog and additional engagement with communications industry stakeholders.

75. *Clarifying Units of Measurement.* USTelecom—The Broadband Association (USTelecom) asked the Commission to clarify whether wavelength division multiplexing (WDM) and optical transport network (OTN) equipment “prices are ‘per node’ and . . . not ‘per route.’” WDM and OTN equipment is typically priced in the communications industry on a per node basis as opposed to per route, and the Bureau clarifies that the range of cost estimates for WDM and OTN equipment in the Catalog is priced on a per node basis. USTelecom also asked the Commission to clarify “whether the range of prices identified in the preliminary Catalog for the ‘existing collocation’ expense type” are “per-month or a flat fee for each lease.” Because collocation is typically priced on a per-site, flat-fee basis, as opposed to a per-month basis, the Bureau revises the Catalog to clarify that the range of cost estimates for collocation is priced on a per-site basis to more accurately describe the per-unit cost of these expenses.

76. *Requests to Include Additional Cost Categories.* CCA asked the Commission to “include in the Cost Catalog an entry for preparation of the

cell site closeout package, which may include photos, red line/as-built drawings, documents, and other relevant information to confirm that the site has been completed to specified standards and requirements.” The Bureau agrees. The Bureau finds that cell site closeout costs may be reasonably necessary to remove and replace covered communications equipment or services, and revised the Catalog to include under the “Services,” “Site Work” cost category, a subcategory for “Closeout Package—Microwave” and general “Closeout Package.” The range of cost estimates for these new cost categories was developed by Widelity based on confidential interviews with communications industry stakeholders.

77. RWA requested the Bureau add an “Attorney fees” cost category to the Catalog for “legal fees spent on the advocacy surrounding the development of the rules,” or “legal fees related to the ongoing rulemaking process.” The Bureau notes that the preliminary catalog included a “Participation in FCC Rulemaking” cost category with a range of cost estimates. The Bureau denies RWA's request because attorney's fees related to the rulemaking proceeding are not reasonably necessary for the removal, replacement, and disposal of covered communications equipment or services. The Bureau modifies the Catalog to remove the “Participation in FCC Rulemaking” cost category and range of cost estimates identified in the preliminary Catalog. The Bureau clarifies, however, that certain attorney's fees and legal expenses incurred for purposes of participating in the Reimbursement Program, such as preparing application forms, reimbursement forms, extension requests, and waiver requests, may be reimbursable to the extent they are reasonably incurred for the removal, replacement, and disposal of covered communications equipment and services and the allocation request is substantiated with supporting documentation. The Bureau also notes that, for example, attorney fees associated with negotiating and reviewing vendor contracts and legal fees associated with zoning and permitting are included in the Catalog range of cost estimates and potentially eligible for reimbursement.

78. *Clarifying Reimbursable Expenses.* CCA asked the Commission to provide “additional clarification on allowable reimbursements for internal employee time, including what type of documentation will be required.” As CCA noted, the preliminary catalog included a range of cost estimates



related to internal labor costs, including carrier internal project management. The Bureau recognizes that the Reimbursement Program will demand significant employee time and resources. Internal labor costs, like other program costs, are reimbursable to the extent they are reasonably incurred removing, replacing, and disposing of covered communications equipment and services. However, for internal labor costs to be reimbursable, they must be entirely related to transition efforts, that is, the costs would not have been incurred but for Reimbursement Program participation removing, replacing, and disposing of covered communications equipment and services. In other words, participants are only eligible to recover that portion of employee time attributable to transitioning equipment and services, not unrelated employee time or expenses related to overhead. Labor costs associated with normal system or network maintenance and administration, conducted in the ordinary course of business, are not reimbursable. The Bureau will review internal labor costs with heightened scrutiny to ensure that such expenses are reasonably necessary for removal, replacement, and disposal of covered communications equipment or services, and to avoid waste, fraud, and abuse in the Program. Generally, the Bureau expects cost estimates for internal labor to be lower than cost estimates for outside services for the same work.

79. The Bureau finds that the Catalog adequately identifies and accounts for employee time, *i.e.*, internal labor costs, that could be quantified for a range of cost estimates based on pricing data submitted by industry stakeholders to Widelity. For example, the Catalog includes a range of cost estimates for internal labor including project management and engineer/staff network operations which are on a per person per month basis. The Bureau makes no changes to the Catalog with respect to internal labor costs. Internal labor costs identified in the Catalog are reimbursable to the extent they are reasonably incurred removing, replacing, and disposing of covered communications equipment and services. Applicants may rely on the Catalog to estimate internal labor costs for their application submissions where applicable but will be required to submit additional documentation accounting for actual costs during the reimbursement stage to ensure that reimbursement funds are entirely related to transition efforts.

80. Applicants seeking reimbursement for internal labor costs that are not

identified in the Catalog will be required to submit individualized cost estimates and documentation and certify that the estimates are made in good faith. In particular, to ensure that internal labor costs are entirely related to transition efforts, such costs must be estimated on a per-hour and per-project basis, providing both an estimate of labor hours to be incurred for each project and the internal labor rate to be used. Evidence of the salary/hourly rate of internal labor must be provided to establish the reimbursable portion of labor costs. Labor rates may be inclusive of salary and benefits. When submitting cost estimates for internal labor costs, the applicant should provide the employee hourly rates, a description of the work performed, and the number of hours to be worked (*e.g.*, copies of employee timesheets or paystubs with hours worked, and Internal Revenue Service Form W-2, Wage and Tax Statement).

81. The Bureau will exercise its discretion in determining whether the hours and/or labor rates satisfy the costs reasonably incurred standard. When submitting actual costs for reimbursement for internal labor, participants should provide: A report listing the hours incurred for each transition task, the applicable labor rate, and the resulting cost; and copies of employee timesheets showing hours worked on each transition task, by day. Timesheet hours must match the totals reported by the task in this document. Timesheets either may come from the participants' time and expense reporting systems or can be manually prepared using spreadsheets or other means. The Bureau may request additional supporting information for internal labor costs, such as payroll, human resources, or financial records.

82. RWA argues that costs associated with "long term maintenance contracts or managed service contracts to maintain and operate Huawei and ZTE networks may need to be terminated prior to the service terms being completed and that the costs associated with the termination . . . should be reimbursed as part of the costs associated with replacing the networks." Observing that "other prepaid service contracts may need to be terminated prior to the service terms being completed," RWA argues that "[t]hese costs should be eligible for reimbursement and included in the Cost Catalog because they are outlays already made that are not otherwise recoverable." The Bureau rejects RWA's request because these expenses are incurred to maintain Huawei and ZTE networks that the Reimbursement

Program is designed to replace. These expenses are not reasonably necessary to remove, replace, and dispose of covered communications equipment and services.

83. The Bureau does, however, clarify that early termination fees incurred by providers terminating long term service contracts, managed service contracts, or other prepaid contracts entered into prior to their application submission may be reimbursable to the extent they are reasonably necessary for removing, replacing, and disposing of covered communications equipment and services. The Bureau will not reimburse early termination fees for contracts entered into after June 30, 2020, as Congress has established that date as the eligibility cut-off for eligible expenses. Beyond our statutory obligation, after June 30, 2020, the date on which the Public Safety and Homeland Security Bureau released orders designating Huawei and ZTE as covered companies under our rule § 54.9, no Universal Service Funds could be used to purchase, obtain, maintain, improve, modify, or support Huawei or ZTE equipment or services. The Bureau declines to reward business decisions where a participant should be on notice to not enter into arrangements with such fees given the program's goals to incentivize providers to remove, replace, and dispose of Huawei and ZTE equipment and services. Participants seeking reimbursement for early termination fees must provide supporting documentation, including copies of vendor contracts with the early termination fee provisions.

84. CCA requested that certain integration costs be included in the Catalog. CCA requested that any Citizens Broadband Radio Service (CBRS) equipment being replaced should include "the costs of re-integration of the new CBRS equipment with Spectrum Access Systems." Because Spectrum Access Systems (SAS) integration costs may be reasonably necessary to replace CBRS equipment, these costs may be reimbursable under the program. The Bureau revises the Catalog to include cost categories for access layer and distribution layer SAS Integration Costs and a range of cost estimates based on Widelity's confidential interviews with communications industry stakeholders.

85. CCA also requested inclusion in the Catalog of a cost category for "third-party integration costs" such as "billing software, messaging platforms, roaming services, WEAS systems, and robocall blocking services." While these expenses are not in the Catalog, some of these expenses may be reimbursable.



However, the Bureau rejects CCA's request because network integration costs are highly variable, making it difficult to develop a quantifiable range of cost estimates based on the record and information provided by communications industry stakeholders to Widelity. As noted in this document, the final Catalog does, however, include specific integration costs, such as SAS integration, that are specific to the type of equipment which may be eligible for reimbursement. Participants seeking reimbursement for network integration costs not identified in the Catalog will need to provide individualized cost estimates with supporting documentation.

86. RWA asked the Commission to modify the Catalog to include "VoLTE compatible replacement subscriber handsets" to replace "CDMA-capable voice services on some handheld devices." Relatedly, CCA asked the Commission to modify the Catalog to clarify that replacements to "add, upgrade, or replace HSS, IMS, PCRF, etc. to support UMTS/LTE/VoLTE devices" fall within the catalog's "purview." In the *2021 Supply Chain Order*, however, the Commission rejected RWA's request, finding "CDMA-capable handsets not produced or provided by Huawei or ZTE ineligible for reimbursement under the Reimbursement Program rules because replacing such handsets with VoLTE-compatible subscriber handsets is not reasonably necessary to the removal, replacement, and disposal of covered communications equipment or service." Consistent with the *2021 Supply Chain Order*, the Bureau declines to modify the Catalog to include handsets and other end user customer premises equipment (CPE) outside of the limited CPE already accounted for in the Catalog.

87. RWBC asked the Commission to modify the Catalog to "include cost estimates for deploying fiber backhaul equipment," arguing that "fiber backhaul facilities should be considered comparable to microwave backhaul facilities under the 'Emerging Technologies' compatibility standard." Similarly, USTelecom asked the Commission to clarify whether leasing "additional capacity on a long-term basis (like a fiber IRU) that would support the parallel network" is eligible for reimbursement. In the *2021 Supply Chain Order*, however, the Commission did not consider "replacing microwave backhaul with fiber backhaul . . . necessary for the removal, replacement, and disposal of" covered communications equipment or services." Instead, the Commission

viewed such "fiber link replacements as a technology upgrade, and not a reasonable, comparable replacement." As the Commission explained in the *2021 Supply Chain Order*, if the participant decides to upgrade its equipment, it will bear the difference in cost between the comparable replacement and the upgrade, must provide price quotes for the comparable replacement with its application, as opposed to relying on the cost estimates in the Catalog, and must certify that the estimated cost is in good faith. Fiber backhaul facilities and additional capacity would be considered an upgrade, not a reasonable, comparable replacement. Accordingly, the Bureau declines to add this equipment as a separate cost category to the Catalog.

88. Ericsson argues that the preliminary catalog "only included Internet of Things (IoT) software licenses associated with core network nodes," which does "not reflect the need to replace existing Machine-to-Machine ('M2M') and IoT software licenses in the Radio Access Networks ('RAN') nodes." Ericsson asked the Commission to "expand the current Catalog to include specific RAN software licenses for existing functionality, such as M2M, Cat-M1, Narrowband IoT, and similar items" because it would "ensure the continuation of IoT capabilities in one frequency band in all sectors of an existing LTE site with typical 2, 4, and 8-port radios." The Bureau declines to implement Ericsson's request because the functionality cited, Internet of Things capabilities, is not reasonably necessary for core network operations and therefore is outside of the scope of the Catalog. The cost categories Ericsson requests to include in the Catalog are not part of the core network but rather are used by end users to connect to advanced communications services. In the *2021 Supply Chain Order*, the Commission found that "Internet of Things devices, used by end users to access and utilize advanced communications services are distinctly different from the cell sites, backhaul, core network, etc. used to operate a network and provide advanced communications services," and were "not reasonably necessary to the removal, replacement, and disposal of covered communications equipment or service."

89. Vantage Point argues that "annual software or license fees" are "a true cost of network replacement and should be included in Catalog replacement estimates." While these expenses may be reimbursable, the Bureau declines to implement Vantage Point's proposed

change because specific software licensing fees are already included in the Catalog based on Widelity's engagement with industry stakeholders. Participants seeking reimbursement for software and licensing fees not identified in the Catalog will need to provide individualized cost estimates with supporting documentation.

90. *Requests to Clarify or Modify Cost Categories.* CCA asks us to "clarify that the full range of 911 implementation costs are reasonable," including "third-party integration costs." The Catalog includes cost estimates for "911 and E911 Services and Test Services" which the Bureau finds are sufficiently specific. To the extent that there are additional costs associated with 911 and E911 (Enhanced 911) implementation as CCA suggests, there is no evidence in the record or provided to Widelity that would form a basis for altering the Catalog 911 and E911 services cost categories. Accordingly, the Bureau declines to implement the change proposed by CCA.

91. USTelecom asked the Commission to clarify that the "Leasing" cost category is not limited to "wireless networks," but that "wireline networks may also need to obtain or modify leases, such as, for example, for space in third-party datacenters." In particular, USTelecom asserts that the "existing colocation" expense type is "unclear." The Bureau clarifies that providers of wireline networks may be eligible for reimbursement of leasing expenses, including colocation expenses, reasonably incurred in removing, replacing, or disposing of covered communications equipment and services. The Bureau declines, however, to modify the Catalog to account for costs of leasing space in third-party data centers. The Bureau notes that there is no documentation in the record to quantify costs for leasing space in third-party data centers, and Widelity did not receive cost data on leasing space in third-party data centers.

92. *Amendments to the Range of Cost Estimates.* Commenters requested that the Bureau modify the range of cost estimates for certain cost categories identified in the preliminary Catalog. Mavenir argues that the low range of cost estimates identified in the preliminary Catalog for "'Open vRAN eNodeB', 'RAN (Open RAN/vRAN) Components' or [Distributed Unit] . . . need to be changed to reflect that costs provided by Mavenir." The Bureau agrees with Mavenir that it should modify the Catalog to reduce the low end of the range of estimated costs for "Open vRAN eNodeB," and "RAN (Open RAN/vRAN Components)" to

reflect the lower pricing information Mavenir submitted to Widely. Accordingly, the Bureau implements these clarifications in the Catalog. However, the Bureau rejects Mavenir's request to lower the low end of the range of cost estimates for the distribution layer Distributed Unit cost category because Widely had already factored in the pricing information Mavenir submitted to Widely when developing the range of cost estimates for the preliminary catalog. Because the Bureau finds the range of cost estimates for Distributed Unit identified in the preliminary catalog to be reasonable, the Bureau includes it in the final Catalog.

93. USTelecom asked the Commission to "reexamine and confirm the appropriate prices" for WDM and OTN equipment. USTelecom asserted that it was "unclear why" cost estimates for access layer "Access WDM & OTN" equipment "matches" core layer "Metro WDM & OTN" equipment, "yet the apparently similar" distribution layer "Metro WDM & OTN" cost estimates are "very different." To remove a potential source of confusion for participants, the Bureau removed the core layer "Metro WDM & OTN" cost category since this equipment is identical to distribution layer WDM and OTN equipment and thus the cost estimates were duplicative. As a result, the Bureau adjusted the range of cost estimates for "WDM & OTN—Core Equipment" to reflect the removal of distribution layer WDM and OTN equipment and the associated range of cost estimates. Accordingly, the Bureau adopts this revision in the Catalog. WDM and OTN associated equipment costs are included for the access layer, distribution layer, and core layer equipment cost categories.

94. USTelecom states that a member has "Huawei equipment that would appear to be classified as Coaxial Media Converters in the proposed catalog" and reports that it "paid well in excess of the maximum allowed," and "the cost to replace Huawei with equal functionality will range from \$13,000–\$16,000 per replacement." USTelecom notes that the carrier "typically refers to" the "Coaxial Media Converters" equipment as a "cable modem termination system (CMTS) and, while CMTS systems are generally deployed in a cable operator's headend, these particular Huawei CMTS devices are field-deployed." Because the Bureau finds that the costs for replacing CMTS are reasonably necessary to comply with the Reimbursement Program, the Bureau finds that the Catalog should be revised to account for CMTS costs. The Bureau agrees with USTelecom that the high-end cost estimate should be \$16,000 per

node but, based on cost estimates recommended by Widely based on industry engagement, the Bureau finds that the low-end cost estimate should be \$8,500 per node. The Bureau modifies the Catalog to include this range of cost estimates for CMTS (per node).

95. CCA asks us to "add the costs of cell site routers to the Catalog, with an estimated cost of \$3,000 per site" because "[e]ach cell site typically has a router installed." The preliminary catalog identified a Distribution Layer cost subcategory and range of cost estimates for "Cell Site Routers." The Bureau revised the Catalog to include additional Distribution Layer cost subcategories and ranges of cost estimates for small, medium, and large cell site routers based on Widely's additional engagement with industry stakeholders. The Bureau finds that Widely's thorough survey of communications industry manufacturers and service providers reasonably identified relevant ranges of estimated costs for cell site routers. To the extent that applicants disagree with the Catalog cost estimates, they may submit individualized cost estimates along with supporting documentation.

96. The Bureau also takes this opportunity to clarify that costs associated with removing, replacing, and disposing of wired (Wi-Fi) and wireless routers that constitute CPE are not be reimbursable under the program and revise the Catalog accordingly. The preliminary catalog included a subcategory (without cost estimates) for "Smart Home" CPE but clarified that "IP cameras, wifi doorbells, wifi, light switches, etc. would not be reimbursable." In the preliminary Report, Widely noted that for wireless networks, CPE can include an "internal modem and broadband router possibly with a wireless access point to distribute a signal throughout the premises or office," and for wired networks, CPE can include a "broadband router, or a premise gateway with wireless (Wi-Fi) capabilities." In the *2021 Supply Chain Order*, the Commission found that certain CPE equipment including end-user handsets were "distinctly different from cell sites, backhaul, core network, etc. used to operate a network and provide advanced communications services." In particular, the Commission found this equipment was not reasonably necessary to the removal, replacement and disposal of covered communications equipment. Wired (Wi-Fi) and wireless routers may constitute CPE used by end users to access non-core network elements and, consistent with the *2021 Supply Chain Order*, are

not reasonably necessary for the removal, replacement, and disposal of covered communications equipment or services. Accordingly, the Bureau revises the Catalog "Smart Home" subcategory to clarify that "Wi-Fi Routers" would not be reimbursable under the program.

97. Airspan argues that the "Cost Catalog's pricing appears grossly inflated," noting that "some of the lower bound cost estimates listed in the Cost Catalog are as much as three times (3x) the price Airspan currently offers for equivalent hardware and other network elements," and that network equipment and services are becoming less expensive by the day due to the ongoing evolution of network architecture design and equipment manufacturing." Airspan did not sufficiently quantify with specificity the changes to the range of cost estimates it envisioned. The Bureau thus declines to modify the Catalog in response to Airspan's comment because it believes that Widely's thorough survey of communications industry manufacturers and service providers reasonably identified relevant ranges of estimated costs. The Bureau notes that it modified the Catalog in parts to reduce the low-end of the range of cost estimates where appropriate.

98. Vantage Point argues that the preliminary Catalog underestimates shipping costs in Alaska, failing to account for "shipping costs to any other major Alaskan port," other than Seattle to Dutch Harbor, and failing to account for "inland transportation costs." The Bureau declines to modify the Catalog to account for additional shipping costs in Alaska raised by Vantage Point. The Catalog accounts for shipping costs to Alaska based on the longest shipping route, Seattle to Dutch Harbor, as an example for the costs typically incurred. Cost estimates for other outlying regions, which vary depending on multiple cost factors, including distance, time of year, freight weight, etc., would be too variable to include in the Catalog. To the extent that providers believe the Catalog does not adequately represent their shipping costs, they may submit individualized cost estimates with supporting documentation.

99. *Widely Proposed Revisions.* Widely also proposed various modifications, clarifications, and improvements to the preliminary catalog, based on additional engagement with communications industry stakeholders and its own thorough review. Widely proposed various clarifications to the descriptions of the cost categories. For example, Widely proposed clarifying that the "Virtual/

Cloud Core Deployment Cloud—Virtual IMS” cost category range of estimated costs is for equipment providing service to “up to 100,000 subscribers.” Widely also proposed revising the description for “Antenna—LTE (Long Term Evolution)” to represent costs for a typical 10-port antenna, instead of an 8-port antenna, resulting in a decrease to the low-range of cost estimates from \$2,087 to \$1,479. Widely also proposed adding additional cost subcategories to provide further specificity and guidance to applicants. For example, Widely proposed adding a Distribution Layer Equipment cost category for “Hybrid Cable & Radio Jumpers, Tower Ancillary Components” with a range of cost estimates. Widely also proposed changes to the range of cost estimates proposed in the preliminary catalog to more accurately reflect reasonable costs typically incurred managing a network. For example, Widely proposed increasing the high-end of the range of cost estimates for “Tower/Installation Crews,” “Mobilization Less than or Equal to 250 Miles (2–4 Member Crew),” from \$3,000 to \$6,000.

100. Because the Bureau finds that Widely’s proposed modifications and clarifications improve the accuracy and quality of the Catalog and will aid participants preparing their initial cost estimates, it revises the Catalog to include additional changes identified by Widely. A complete listing of the changes to the preliminary catalog that are reflected in the final Catalog are included as an attachment to the Catalog in Appendix C of the PN.

101. *Highly Variable Expenses.* For certain expenses identified in the preliminary catalog—such as costs associated with network security equipment, network automation, and network integrator services—a range could not be quantified, most often due to the highly variable nature of the cost. Taxes, for example, vary by state and locality and/or tax exemption and therefore could not be quantified for the Catalog. The same holds true for special access site costs which vary by site and region. For these expenses, while the Bureau recognizes they are potentially reimbursable, applicants will not be able to rely on the Catalog as there is no quantified range. Accordingly, for such expenses, applicants will need to provide an individual cost estimate with supporting documentation. The Bureau has moved those expense descriptions to the back of the Catalog merely as an acknowledgement that it has considered such costs and recognize they are potentially eligible for reimbursement

even though a cost estimate range could not be quantified.

#### C. Final Replacement List

102. The Bureau adopts a final List of Categories of Suggested Replacement Equipment and Services (Replacement List) to guide providers removing, replacing, and disposing of covered communications equipment and services. Section 4(d)(1) of the Secure Networks Act directs the Commission to “develop a list of suggested replacements of both physical and virtual communications equipment, application and management software, and services or categories of replacements of both physical and virtual communications equipment, application and management software and services.” The list must be “technology neutral and may not advantage the use of reimbursement funds for capital expenditures over operational expenditures.” Accordingly, in the *2020 Supply Chain Order*, Commission mandated the development of a Replacement List “that will identify the categories of suggested replacements of real and virtual hardware and software equipment and services to guide providers removing covered communications equipment from their networks.” and directed the Bureau to issue a public notice announcing the Replacement List. The Bureau sought and received comment on a preliminary Replacement List prepared by Widely in the *Catalog PN*. After considering the comments addressing the preliminary Replacement List received in response to the *Catalog PN*, the Bureau declines to make any changes to the preliminary Replacement List.

103. Santel Communications Cooperative, Inc. (Santel) asked the Bureau to “add a statement in the Replacement List acknowledging that replacing covered equipment with other advanced communications services equipment, specifically including [fiber-to-the-premises (FTTP)] equipment, qualifies for reimbursement under the Supply Chain Reimbursement Program.” In the *2021 Supply Chain Order*, however, the Commission explained that it generally views fiber link replacements, including FTTP, as a technology upgrade and not a reasonable, comparable replacement for covered communications equipment and services. Participants may upgrade communications equipment and services under the Reimbursement Program but, as the Commission explained, will ultimately bear the difference in cost between the comparable replacement and the upgrade. Because cost determinations

are very case-by-case specific, and FTTP is generally considered an upgrade, not a reasonable, comparable replacement, the Bureau declines to adopt Santel’s proposed modification to the Replacement List.

104. ADTRAN seeks to “incorporate a ‘Buy American’ preference into the suggested Replacement Equipment.” However, when Congress created the Reimbursement Program it did not express a preference for providers to replace covered communications equipment and services with equipment and services provided by U.S. companies. Similarly, and by ADTRAN’s own admission, Congress did not include a “Buy American” preference for the Reimbursement Program in sections 901 or 906 of the Secure Networks Act. Furthermore, in the *2020 Supply Chain Order* the Commission explained that the Replacement List should “provide carriers with the flexibility to select the equipment or services that fit their needs from categories of equipment and services.” Consistent with the *2020 Supply Chain Order*, the Bureau provides participants with the flexibility to select U.S. and non-U.S. equipment or services (excluding, of course, Huawei and ZTE equipment or services) that satisfy their obligations under the Reimbursement Program. Accordingly, the Bureau declines to adopt ADTRAN’s proposed modification to the Replacement List.

105. Accordingly, for the reasons stated herein, the Bureau adopts the preliminary replacement list proposed in the *Catalog PN*, without changes, as the final Replacement List for use in the Reimbursement Program. Consistent with the *2020 Supply Chain Order*, the Bureau will publish the final Replacement List on the Commission’s website and issue a public notice at least annually announcing any updates to the Replacement List, to the extent there are any updates, to ensure that the Replacement List remains current. The final Replacement List is attached as Appendix D of the PN.

#### D. Widely Report

106. The Bureau also sought comment in the *Catalog PN* on the Supply Chain Reimbursement Program Study (Report) prepared by Widely. The Report represents the views of Widely, not the views of the Commission or the Bureau, and is not an official Commission document. While the Bureau appreciates comments received addressing and proposing changes to the Report, the Bureau did not intend for further revisions to the Report by Widely and instead sought comment

only to help gauge the adequacy and sufficiency of the subjects covered in the Report as the Bureau works to implement the Reimbursement Program. Specifically, the Report was intended “as an industry and technology overview and explains Widely’s methodologies used to develop the initial version of the proposed Catalog and Replacement List.” Comments on the Report are relevant only to the extent they inform the finalization of the Catalog and Replacement List. The final Catalog will be used by participants to estimate initial costs, and the final Replacement List will serve as a suggested guide to participants replacing equipment and services. Accordingly, the Bureau finds it unnecessary to require further revisions to the Widely Report.

### III. Procedural Matters

#### E. Paperwork Reduction Act

107. This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. Therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198. The Commission has submitted the information collection requirements contained in the *2020 Supply Chain Order*, including FCC Form 5460, to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. OMB, the general public, and other Federal agencies will be invited to comment on those requirements.

#### F. Congressional Review Act

108. The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, OMB, concurs, that these requirements are non-major under the Congressional Review Act, 5 U.S.C. 804(2). The Bureau will send a copy of this document to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

109. *Legal Authority*. The Bureau establishes procedures for the Reimbursement Program pursuant to the authority contained in section 4 of the Secure Networks Act, as amended, 47 U.S.C. 1603, and § 1.50004(p) of the Commission’s rules, 47 CFR 1.50004(p).

110. *Treasury Offset*. The U.S. Department of the Treasury (Treasury) has a number of collection tools, including the Treasury Offset Program (TOP), whereby it collects delinquent

debts owed to Federal agencies and states by individuals and entities, by offsetting those debts against Federal monies owed to the debtors. As noted in the *Reimbursement Process PN*, TOP will apply to disbursements from the Reimbursement Program.

Reimbursement Program participants owing past-due debt to a Federal agency or a state may have all or part of their disbursement payments offset by Treasury to satisfy such debt. Prior to referral of its debt to Treasury, an entity is notified of the debt owed, including repayment instructions. If the referred debt of a Reimbursement Program participant remains outstanding at the time of a disbursement payment from the Reimbursement Program to that participant, the participant will be notified by Treasury that some or all of its payment has been offset to satisfy an outstanding Federal or state debt. Program participants that owe past due Federal or state debts that have been referred to Treasury are encouraged to resolve such debts prior to submitting their Application Request for Funding Allocation. The Bureau lacks discretion to deviate from the requirements of the TOP.

111. RWA recognizes the Commission lacks the authority to deviate from the TOP requirements but “encourages the Reimbursement Program Fund Administrator and the FCC to work through any debt collection issues with the applicant prior to funds being released so that an applicant can cure any outstanding debts in order to receive funding.” The Bureau will endeavor to work with participants, to the extent practicable, on Treasury Offset debt collection issues in connection with the disbursement process. Participants are, however, encouraged to proactively identify and resolve any outstanding Federal and state debt issues before participating in the Reimbursement Program that could lead to a Treasury Offset.

112. *Do Not Pay*. Absent comment on the issue, the Commission adopts the proposal for the Bureau in coordination with the Commission’s Office of Managing Director to “conduct a thorough review of the federal ‘Do Not Pay’ system database to verify an applicant’s eligibility for payments and awards” before distributing the funding. Pursuant to the Payment Integrity Information Act of 2019 (PIIA), the Commission is required to ensure that a thorough review of available databases with relevant information on eligibility occurs to determine program or award eligibility and prevent improper payments before the release of any federal funds.” The Department of

Treasury’s Do Not Pay system is designed to decrease improper payments in Federal programs such as the payment of funds to ineligible recipients, overpayment, or underpayment.

113. Under the PIIA, the Commission is required to verify the eligibility of the funding recipient in multiple databases before allocating and distributing the funding. The Reimbursement Program Fund Administrator will initially check whether an applicant is identified in the Do Not Pay system. If an applicant is ineligible for funding under the Do Not Pay system, the Reimbursement Program Fund Administrator will notify the applicant and provide an opportunity for the applicant to expeditiously resolve the matter with the Do Not Pay system. The Bureau will not allocate funding to the applicant if an applicant is ineligible for funding under the Do Not Pay system. If a check of the Do Not Pay system results in a finding that a Reimbursement Program applicant is ineligible for funding or payment, the Commission will withhold funding and/or payments as appropriate. The Program Administrator may work with the applicant to give it an opportunity to resolve its listing in the Department of the Treasury’s Do Not Pay system if the applicant can produce evidence that its listing in the Do Not Pay system should be removed. However, the applicant or program participant will be responsible for working with the relevant agency to correct its information before funding can be allocated or payment can be made by the Commission.”

114. *Red Light Rule*. In the *Reimbursement Procedures PN*, the Bureau sought comment on waiving the Commission’s “red light rule” for all funding allocations and disbursements from the Reimbursement Program. RWA supported this proposal. Accordingly, the Bureau will waive the “red light rule” for the Reimbursement Program as discussed in this document.

115. The Commission’s “red light rule” prevents parties who are delinquent on debts owed to the Commission from receiving benefits from the Commission while the debts remain unpaid. The Commission adopted the “red light rule” in implementation of the Federal Debt Collection Improvement Act of 1996 that sought to “maximize collections of delinquent debts owed to the Government . . .” The Commission has the authority to waive the “red light rule” for “good cause shown” under the Commission’s rules. The Commission can waive compliance with its own regulations when “particular facts

would make strict compliance [with the regulation] inconsistent with the public interest." The Bureau finds that the waiver of the "red light rule" is justified in this instance given the national security risks posed to U.S. networks by Huawei and ZTE covered communications equipment and services.

116. *Final Regulatory Flexibility Certification.* The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concerns" under the Small Business Act. A "small business concern" is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

117. The Commission prepared Initial Regulatory Flexibility Analyses (IRFAs) in connection with the *2020 Supply Chain Declaratory Ruling*, 85 FR 47211, August 4, 2020, *2020 Supply Chain Second Further Notice of Proposed Rulemaking (FNPRM)*, 85 FR 48134, August 10, 2020, and the *2021 Supply Chain Third FNPRM*, 86 FR 15165, March 22, 2021. The Commission sought written public comment on the proposals in the *2020 Supply Chain Declaratory Ruling*, *2020 Supply Chain Second FNPRM*, and the *2021 Supply Chain Third FNPRM*, including comments on the IRFAs. No comments were filed addressing the IRFAs. The Commission included Final Regulatory Flexibility Analyses (FRFAs) in connection with the *2020 Supply Chain Order* and the *2021 Supply Chain Order*.

118. This document establishes procedures for the Reimbursement Program to implement the rules adopted by the Commission for the Reimbursement Program in the *2020 Supply Chain Order* and in the *2021 Supply Chain Order*. In particular, this document establishes procedures for, among other things, determining program eligibility and participating in the program, including the filing and processing of applications. The procedures established in this document flow from the proposals set forth in the

*2020 Supply Chain Declaratory Ruling*, *2020 Supply Chain Second FNPRM*, and the *2021 Supply Chain Third FNPRM* and discussed in the IRFAs accompanying those Notices, and are consistent with the requirements established in the *2020 Supply Chain Order* and the *2021 Supply Chain Order* and addressed in the FRFAs accompanying those Orders. Accordingly, no changes to our earlier analyses are required.

119. The Bureau has determined that the impact on the entities affected by the requirements contained in this document will not be significant. The effect of these measures is to establish for the benefit of those entities, including small entities, the procedures for filing an application consistent with existing rules, to participate in the Reimbursement Program to obtain funding support to remove from their networks, replace, and dispose of communications equipment and service considered a national security risk.

120. The Bureau therefore certifies that the requirements of this document will not have a significant economic impact on a substantial number of small entities. The Bureau will send a copy of the document including a copy of this Final Regulatory Flexibility Certification, in a report to Congress pursuant to the Congressional Review Act. In addition, the document and this final certification will be sent to the Chief Counsel for Advocacy of the SBA, and will be published in the **Federal Register**.

Federal Communications Commission.

**Cheryl Callahan,**

*Assistant Chief, Telecommunications Access Policy Division, Wireline Competition Bureau.*

[FR Doc. 2021-18446 Filed 8-30-21; 8:45 am]

**BILLING CODE 6712-01-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[**MB Docket No. 21-60; RM-11844; DA 21-1038; FR ID 45283**]

### Television Broadcasting Services Superior and York, Nebraska

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** On March 10, 2021, the Media Bureau, Video Division (Bureau) issued a *Notice of Proposed Rulemaking (NPRM)* in response to an amended rulemaking petition filed by Gray Television Licensee, LLC (Gray), the licensee of KSNB-TV, channel 4 (NBC/

MyNetwork), Superior, Nebraska. Gray requested that the Commission delete channel 4 from Superior and allot it to York, Nebraska in the DTV Table of Allotments and substitute channel 24 for channel 4 at York in the Table consistent with the technical parameters set forth in its Amended Petition. For the reasons set forth in the *Report and Order* referenced below, the Bureau amends FCC regulations to delete channel 4 from Superior and allot it to York, and then substitute channel 24 for channel 4 at York consistent with the technical parameters set forth in its amended petition.

**DATES:** Effective August 31, 2021.

**FOR FURTHER INFORMATION CONTACT:** Joyce Bernstein, Media Bureau, at (202) 418-1647 or [Joyce.Bernstein@fcc.gov](mailto:Joyce.Bernstein@fcc.gov).

**SUPPLEMENTARY INFORMATION:** The proposed rule was published at 86 FR 15180 on May 21, 2021. Because Gray's proposal that the Bureau allot channel 24 to York is not mutually exclusive with its existing channel 4 allotment at Superior and would result in removal of Superior's sole local transmission outlet, the *NPRM* sought comment on whether to waive section 1.420(i) of the Commission's rules regarding mutual exclusivity, and the Commission's allotment policy disfavoring the removal of a community's sole first local service. Gray filed comments in support of the petition reaffirming its commitment to apply for channel 24 and filed amended comments at the Bureau's request to more fully address the waiver issues. In addition to KSNB-TV, Gray is the licensee of KOLN, Lincoln, Nebraska. KOLN's tower collapsed in 2020 and according to Gray, given the imminent failure of KSNB-TV's existing technical facility, rebuilding KSNB-TV on channel 24 at the new KOLN tower would resolve VHF-related reception issues in certain areas of KSNB-TV's current predicted service area, and save several hundred thousand dollars in construction costs.

With respect to the mutual exclusivity requirement, the Commission adopted section 1.420 to allow a television station to request a new community of license without subjecting the station to the risk of losing its license to competing applications if the change in community of license was mutually exclusive with the station's current allotment, so that the change would not deprive potential future applicants of the opportunity to apply for a new station to serve the area. Gray demonstrated that multiple channels are currently available for future allotment in the Superior/York/Lincoln, Nebraska area and, thus, because the underlying

purpose of the rule would not be frustrated by changing KSNB-TV's community of license without allowing competing expressions of interest, the Bureau waived this requirement of section 1.420 of the rules. The Bureau also waived the Commission's policy disfavoring the removal of a sole local service allotted to a community. York is significantly larger than Superior, and grant of a waiver to allow KSNB-TV to collocate with KOLN would result in the provision of first, second, and third television service to a substantial number of persons. Moreover, other important public interest benefits would accrue by permitting KSNB-TV to change its channel and community, and collocate with KOLN, including operational and economic efficiencies and resolving low VHF reception problems for KSNB-TV. There are also a number of channels that may be allotted to Superior if an interested party wishes to pursue acquiring a construction permit for a new station in the area. In addition, Superior would receive improved service from KSNB-TV's operation on channel 24 on the KOLN tower.

This is a synopsis of the Commission's *Report and Order*, MB Docket No. 21-60; RM-11884; DA 21-1038, adopted August 23, 2021, and released August 24, 2021. The full text of this document is available for download at <https://www.fcc.gov/edocs>. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any proposed information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601-612, do not apply to this proceeding.

The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

**List of Subjects in 47 CFR Part 73**

Television.

Federal Communications Commission.  
**Thomas Horan,**  
*Chief of Staff, Media Bureau.*

**Final Rule**

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

**PART 73—RADIO BROADCAST SERVICE**

■ 1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 155, 301, 303, 307, 309, 310, 334, 336, 339.

■ 2. In § 73.622, in paragraph (i), amend the Post-Transition Table of DTV Allotments, under Nebraska, by removing the entry for "Superior" and adding an entry for "York" in alphabetical order.

The additions reads as follows:

**§ 73.622 Digital television table of allotments.**

	Community	Channel No.
(i) * * *		
	*	*
<b>NEBRASKA</b>		
York .....		24
	*	*

[FR Doc. 2021-18783 Filed 8-30-21; 8:45 am]

**BILLING CODE 6712-01-P**

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 73**

[MB Docket No. 21-254; RM-11911; DA 21-1039; FR ID 45276]

**Television Broadcasting Services Fredericksburg, Texas.**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** On June 16, 2021, the Media Bureau, Video Division (Bureau) issued a *Notice of Proposed Rulemaking (NPRM)* in response to a petition for rulemaking filed by Corridor Television, L.L.P. (Petitioner), the licensee of KCWX (MyNetwork), channel 5, Fredericksburg, Texas, requesting the substitution of channel 8 for channel 5 at Fredericksburg in the DTV Table of

Allotments. For the reasons set forth in the *Report and Order* referenced below, the Bureau amends FCC regulations to substitute channel 8 for channel 5 at Fredericksburg.

**DATES:** Effective August 31, 2021.

**FOR FURTHER INFORMATION CONTACT:** Joyce Bernstein, Media Bureau, at (202) 418-1647 or [Joyce.Bernstein@fcc.gov](mailto:Joyce.Bernstein@fcc.gov).

**SUPPLEMENTARY INFORMATION:** The proposed rule was published at 86 FR 33612 on June 25, 2021. The Petitioner filed comments in support of the petition reaffirming its commitment to apply for channel 8. The Petitioner states that since it converted to digital channel 5 operations in 2009, it has received numerous complaints from the public about poor reception, and while it is operating with an effective radiated power of 45 kW, this power increase did not resolve the reception issues. The Petitioner recounts the steps it has taken to improve reception on its low-VHF channel, including obtaining authorizations for digital replacement translators, but concludes that it has no option to resolve the Station's reception problems other than to move from its low-VHF channel 5 to high-VHF channel 8. The Petitioner proposes to utilize a Distributed Transmission System (DTS) facility comprised of six single frequency network (SFN) nodes and identified three separate loss areas. The Petitioner submitted documentation showing that one loss area would continue to be served by five other full-power television stations and another loss area would continue to be served by eight other full-power television stations. While the third loss area would only continue to receive service from one full-power television stations, only 14 people live in this area.

This is a synopsis of the Commission's *Report and Order*, MB Docket No. 21-254; RM-11911; DA 21-1039, adopted August 23, 2021, and released August 24, 2021. The full text of this document is available for download at <https://www.fcc.gov/edocs>. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any proposed information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of

2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, do not apply to this proceeding.

The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

**List of Subjects in 47 CFR Part 73**

Television.  
Federal Communications Commission.  
**Thomas Horan,**  
*Chief of Staff, Media Bureau.*

**Final Rule**

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

**PART 73—RADIO BROADCAST SERVICE**

■ 1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 155, 301, 303, 307, 309, 310, 334, 336, 339.

■ 2. In § 73.622, in paragraph (i), amend the Post-Transition Table of DTV Allotments, under Texas, by revising the entry for “Fredericksburg” to read as follows:

**§ 73.622 Digital television table of allotments.**

\* \* \* \* \*  
(i) \* \* \*

Community	Channel No.
* * *	* * *
<b>TEXAS</b>	
Fredericksburg .....	8
* * *	* * *

[FR Doc. 2021–18782 Filed 8–30–21; 8:45 am]

**BILLING CODE 6712–01–P**

**DEPARTMENT OF TRANSPORTATION**

**National Highway Traffic Safety Administration**

**49 CFR Part 571**

[Docket No. NHTSA–2019–0074]

**RIN 2127–AL87**

**Federal Motor Vehicle Safety Standards; Technical Corrections and Clarifications Related to Tires and Rims**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

**ACTION:** Final rule.

**SUMMARY:** This document amends Federal Motor Vehicle Safety Standard (FMVSS) No. 109, “New pneumatic and certain specialty tires,” in response to a petition for rulemaking from the Tire and Rim Association, to clarify the applicability of the FMVSSs to certain types of tires intended for use on trailers. Based on a review of prior amendments to FMVSS Nos. 109 and 119, “New pneumatic tires for motor vehicles with a Gross Vehicle Weight Rating (GVWR) of more than 4,536 kilograms (10,000 pounds) and motorcycles.” NHTSA concludes that it inadvertently made these tires subject to both FMVSS Nos. 109 and 119, when it was the Agency’s intent to make them subject only to FMVSS No. 119. This document corrects that error, and also includes nonsubstantive technical corrections to tire and rim regulations.

**DATES:** The effective date of this rule is September 30, 2021.

*Petitions for reconsideration:* Petitions for reconsideration of this final rule must be received not later than October 15, 2021.

**ADDRESSES:** Petitions for reconsideration of this final rule must refer to the docket and notice number set forth above and be submitted to the Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590. For hand delivery or courier delivery, delivery is only possible between 9:00 a.m. and 5:00 p.m. Eastern time. To be sure someone is there to help you, please call (202) 366–9332 before coming.

**FOR FURTHER INFORMATION CONTACT:** David Jasinski, Office of the Chief Counsel, by telephone at (202) 366–2992, and by fax at (202) 366–3820. You may send mail to this official at the National Highway Traffic Safety

Administration, 1200 New Jersey Avenue SE, Washington, DC 20590.

**SUPPLEMENTARY INFORMATION:**

**I. Summary of the NPRM**

On August 21, 2019, NHTSA published in the **Federal Register** a Notice of Proposed Rulemaking (NPRM) proposing amendments to FMVSS No. 109, in response to a petition from the Tire and Rim Association (TRA). TRA sought to clarify the applicability of the FMVSSs to certain types of tires intended for use on trailers (Special Trailer (ST) tires, Farm Implement (FI) tires, and tires with a rim diameter code of 12 or below (hereinafter, “specialty tires”), and sought other nonsubstantive technical amendments.<sup>1</sup> The NPRM proposed to clarify NHTSA’s intent to make specialty tires intended for use on trailers to be subject only to FMVSS No. 119.

In the NPRM, NHTSA acknowledged that in a January 2006 final rule,<sup>2</sup> NHTSA stated its intent for specialty tires to be subject to FMVSS No. 119, but in an August 2007 final rule had inadvertently made specialty tires also subject to FMVSS No. 109.<sup>3</sup> Further, NHTSA acknowledged that FMVSS No. 109 does not specify test conditions for specialty tires with maximum inflation pressures not specified in FMVSS No. 109. Without specified test pressures, NHTSA cannot test specialty tires for compliance with FMVSS No. 109. While this issue could be remedied by adding new test pressures to FMVSS No. 109, NHTSA stated its belief that making specialty tires subject to FMVSS No. 119 is preferable because FMVSS No. 119 specifies test conditions based on load range designations. Doing so would provide the tire industry flexibility to change maximum tire inflation pressures for specialty tires without first requesting regulatory changes from NHTSA.

Based on the foregoing, NHTSA proposed an amendment to FMVSS No. 109 to remove references to specialty tires from the title and the “Application” section. Second, NHTSA proposed to add a reference to specialty tires to the title of FMVSS No. 119. In addition, though not suggested by TRA, NHTSA proposed an amendment to the “Scope” section of FMVSS No. 119 to include a reference to specialty tires, to provide added clarity regarding the applicability of FMVSS No. 119 to specialty tires. Specialty tires are already listed in the “Application” section of FMVSS No. 119.

<sup>1</sup> 84 FR 43563.

<sup>2</sup> 71 FR 877.

<sup>3</sup> 72 FR 49207.



NHTSA also proposed amendments to Table III in FMVSS No. 119, the endurance test schedule, which had been included in a prior NPRM proposing upgrades to FMVSS No. 119.<sup>4</sup> These included technical corrections to Table III of FMVSS No. 119 to include items that have been inadvertently omitted from the table through amendments to the standard, including those pertinent to specialty tires. The NPRM proposed correcting the omission of load range C, D, M, and N for speed-restricted service tires, load range A through E and M from the list of “All other” tires, and missing footnotes.

The August 2019 NPRM also included several nonsubstantive technical amendments:

- A corresponding amendment to FMVSS No. 110 to remove a reference to FMVSS No. 109 as a standard under which specialty tires could be certified.
- Clarification that tires manufactured for vehicles manufactured in the year 1975 are subject to FMVSS No. 109.
- The reinsertion of a footnote in Table II of FMVSS No. 119 that had inadvertently been omitted, stating that the minimum breaking energy requirements for rayon cord tires is 60 percent of those listed in the Table II.<sup>5</sup>
- Formatting changes and revised headings in Table II of FMVSS No. 119 to make the table easier to read.<sup>6</sup>
- Correction of the formula in S7.3(f)(1) of FMVSS No. 119 for computing breaking energy of a tire when using metric units.<sup>7</sup>
- Correction of the values for total number of revolutions of the test wheel during the endurance test in Table III of FMVSS No. 119.
- Clarification that deep tread (18/32 inch or greater) light truck tires are excluded from FMVSS No. 139. NHTSA had previously determined that such tires should be subject to FMVSS No. 119.<sup>8</sup>
- Clarification that FMVSS No. 139 excludes tires with rim diameters of 12 inches and below, not 8 inches as it currently is stated. Tires with rim diameters between 8 and 12 inches are considered specialty tires that will be subject only to FMVSS No. 119.
- The insertion of a missing heading referencing light truck tires with a

nominal cross section  $\leq 295$  mm (11.5 inches) in the tables setting forth the test pressure for the high speed performance test, the tire endurance test, and the low inflation pressure performance test for light trucks in FMVSS No. 139.

- Correction of NHTSA’s current address in FMVSS No. 110 and FMVSS No. 139.
- Typographical errors in the application section of FMVSS No. 110.

## II. Summary of the Comments Received and NHTSA’s Response

NHTSA received three comments in response to the August 2019 NPRM, one from the Japan Automobile Tyre Manufacturers Association (JATMA) and two separate comments from the U.S. Tire Manufacturers Association (USTMA), both of which are trade associations representing tire manufacturers.

JATMA’s comment supported the proposal. However, JATMA also sought an amendment to S5.5.1 of FMVSS No. 139 “to reflect new Tire Identification Number [TIN] stipulated in 49 CFR part 574.5.”<sup>9</sup> Although JATMA does not specify precisely what in S5.5.1 of FMVSS No. 139 it wants amended, NHTSA believes that JATMA is likely referring to the reference to an “optional code.”

NHTSA is not accepting this suggested amendment from JATMA in the final rule. In an April 13, 2015 final rule, NHTSA updated the TIN requirements to standardize the length of the TIN to 13 symbols for new tires, making no part of the TIN optional.<sup>10</sup> However, compliance with these new requirements is optional until April 13, 2025 for most new tire manufacturers. Until that date, some tire manufacturers may be following the older TIN content requirements, which include an optional code. Therefore, NHTSA will not consider removing the references to an optional code in FMVSS No. 139, as suggested by JATMA, until after April 13, 2025.

USTMA’s first comment was supportive of the proposal. However, it noted that the heading of section III.A in the NPRM referred to the “Date of Manufacture of Tires Subject to FMVSS No. 109.” USTMA noted that the applicability of FMVSS No. 109 hinges on the date of manufacture of the vehicle rather than the date of manufacture of the tire. USTMA is correct. However, as they noted in their comment, the text following the heading

referred to the applicability of FMVSS No. 109 correctly.

USTMA submitted a second comment identifying a typographical error in FMVSS No. 119 not discussed in the NPRM. FMVSS No. 119, S6.3 sets forth requirements for the high speed performance test and refers to test procedures specified in S7.3. However, USTMA observed that the test procedures for the high speed performance test in FMVSS No. 119 are actually located in S7.4. USTMA requested that NHTSA correct this typographical error. NHTSA agrees that this is a typographical error and is correcting the error in this final rule.<sup>11</sup>

Finally, NHTSA has reviewed the updates and clarifications in the proposal and has found that one additional change to the presentation of Table II of FMVSS No. 119 would be helpful. Specifically, NHTSA is separating the column containing light truck tires and tubeless tires with rim diameter code 17.5 or smaller into two separate columns. Although these tires use the same plunger size and have the same performance requirements for any given load range, including them in the same column made the column heading either ambiguous or too long. This nonsubstantive change should ease reader understanding.

## III. Final Rule

For the reasons stated in the August 2019 NPRM, NHTSA is adopting all of the amendments proposed in the August 2019 NPRM except for the modification to Table II of FMVSS No. 119 discussed in the prior paragraph. The Agency is also amending S6.3 of FMVSS No. 119 to correct a typographical error, as discussed in the response to the comment from USTMA.

## IV. Rulemaking Analyses and Notices

### A. Executive Order 12866, Executive Order 13563, and DOT Rulemaking Procedures

NHTSA has considered the impact of this rulemaking action under Executive Order 12866, Executive Order 13563, and the Department of Transportation’s administrative rulemaking procedures. This rulemaking is not considered significant and was not reviewed by the Office of Management and Budget under E.O. 12866, “Regulatory Planning and Review.”

This rule clarifies the applicability of the FMVSSs to tires intended for use on

<sup>4</sup> 75 FR 60036 (Sep. 29, 2010). These proposals did not receive adverse comments responding to that NPRM.

<sup>5</sup> This amendment had been proposed previously in a January 10, 2013 Supplemental NPRM and NHTSA received no adverse comment. See 78 FR 2236.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Supra* note 2.

<sup>9</sup> JATMA comments, Docket No. NHTSA–2019–0074–0002, at 1.

<sup>10</sup> 80 FR 19553.

<sup>11</sup> NHTSA finds that there is good cause to exempt this amendment from the notice-and-comment procedure usually undertaken prior to adopting amendments. Advance notice of this amendment is unnecessary because this is merely a correction of an obvious typographical error.



trailers and makes other technical amendments. It will not result in any costs nor will it have any impact on safety.

#### B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Small Business Administration's regulations at 13 CFR part 121 define a small business, in part, as a business entity "which operates primarily within the United States." (13 CFR 121.105(a)). No regulatory flexibility analysis is required if the head of an agency certifies the rule would not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule would not have a significant economic impact on a substantial number of small entities.

NHTSA has considered the effects of this final rule under the Regulatory Flexibility Act. I certify that this rule will not have a significant economic impact on a substantial number of small entities. This rule will directly impact manufacturers of tires. Although we believe some manufacturers affected by this rule are considered small businesses, we do not believe this rule will have a significant economic impact on those manufacturers. This final rule makes only minor technical changes to the FMVSSs, and does not affect the substantive requirements of the FMVSSs. This rule will not impose any costs upon manufacturers and instead, will relieve any confusion that may exist regarding the applicability of FMVSS No. 109 to specialty tires.

#### C. Executive Order 13132 (Federalism)

NHTSA has examined this rule pursuant to Executive Order 13132 (64 FR 43255, August 10, 1999) and concluded that no additional consultation with States, local governments or their representatives is mandated beyond the rulemaking process. The Agency has concluded that the rulemaking would not have sufficient federalism implications to warrant consultation with State and

local officials or the preparation of a federalism summary impact statement. The final rule would not have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

NHTSA rules can preempt in two ways. First, the National Traffic and Motor Vehicle Safety Act contains an express preemption provision: When a motor vehicle safety standard is in effect under this chapter, a State or a political subdivision of a State may prescribe or continue in effect a standard applicable to the same aspect of performance of a motor vehicle or motor vehicle equipment only if the standard is identical to the standard prescribed under this chapter. 49 U.S.C. 30103(b)(1). It is this statutory command by Congress that preempts any non-identical State legislative and administrative law addressing the same aspect of performance.

The express preemption provision described above is subject to a savings clause under which "[c]ompliance with a motor vehicle safety standard prescribed under this chapter does not exempt a person from liability at common law." 49 U.S.C. 30103(e). Pursuant to this provision, State common law tort causes of action against motor vehicle manufacturers that might otherwise be preempted by the express preemption provision are generally preserved. However, the Supreme Court has recognized the possibility, in some instances, of implied preemption of such State common law tort causes of action by virtue of NHTSA's rules, even if not expressly preempted. This second way that NHTSA rules can preempt is dependent upon there being an actual conflict between an FMVSS and the higher standard that would effectively be imposed on motor vehicle manufacturers if someone obtained a State common law tort judgment against the manufacturer, notwithstanding the manufacturer's compliance with the NHTSA standard. Because most NHTSA standards established by an FMVSS are minimum standards, a State common law tort cause of action that seeks to impose a higher standard on motor vehicle manufacturers will generally not be preempted. However, if and when such a conflict does exist—for example, when the standard at issue is both a minimum and a maximum standard—the State common law tort cause of action is impliedly preempted. See *Geier v. American Honda Motor Co.*, 529 U.S. 861 (2000).

Pursuant to Executive Order 13132 and 12988, NHTSA has considered whether this rule could or should preempt State common law causes of action. The Agency's ability to announce its conclusion regarding the preemptive effect of one of its rules reduces the likelihood that preemption will be an issue in any subsequent tort litigation.

To this end, the Agency has examined the nature (*e.g.*, the language and structure of the regulatory text) and objectives of this rule and finds that this rule, like many NHTSA rules, prescribes only a minimum safety standard. As such, NHTSA does not intend that this rule preempt State tort law that effectively would impose a higher standard on motor vehicle manufacturers than that established by today's rule. Establishment of a higher standard by means of State tort law would not conflict with the minimum standard announced here. Without any conflict, there could not be any implied preemption of a State common law tort cause of action.

#### D. Executive Order 12988 (Civil Justice Reform)

With respect to the review of the promulgation of a new regulation, section 3(b) of Executive Order 12988, "Civil Justice Reform" (61 FR 4729; Feb. 7, 1996), requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect; (2) clearly specifies the effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct, while promoting simplification and burden reduction; (4) clearly specifies the retroactive effect, if any; (5) specifies whether administrative proceedings are to be required before parties file suit in court; (6) adequately defines key terms; and (7) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. This document is consistent with that requirement.

Pursuant to this Order, NHTSA notes as follows. The issue of preemption is discussed above. NHTSA notes further that there is no requirement that individuals submit a petition for reconsideration or pursue other administrative proceedings before they may file suit in court.

#### E. Protection of Children From Environmental Health and Safety Risks

Executive Order 13045, "Protection of Children from Environmental Health and Safety Risks" (62 FR 19855, April 23, 1997), applies to any rule that: (1)

Is determined to be “economically significant” as defined under Executive Order 12866, and (2) concerns an environmental, health, or safety risk that the agency has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not economically significant as defined under Executive Order 12866. Further, this rulemaking is not expected to have a disproportionate health or safety impact on children. Consequently, no further analysis is required under Executive Order 13045.

F. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA), a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. There is no information collection requirement associated with this rule.

G. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) requires NHTSA to evaluate and use existing voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law (e.g., the statutory provisions regarding NHTSA’s vehicle safety authority) or otherwise impractical. Voluntary consensus standards are technical standards developed or adopted by voluntary consensus standards bodies. Technical standards are defined by the NTTAA as “performance-based or design-specific technical specification and related management systems practices.” They pertain to “products and processes, such as size, strength, or technical performance of a product, process or material.”

Examples of organizations generally regarded as voluntary consensus standards bodies include ASTM International, the Society of Automotive Engineers (SAE), and the American National Standards Institute (ANSI). If NHTSA does not use available and potentially applicable voluntary consensus standards, we are required by the Act to provide Congress, through OMB, an explanation of the reasons for not using such standards.

There are no voluntary consensus standards developed by voluntary

consensus standards bodies pertaining to this rule.

H. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires Federal agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than \$100 million annually (adjusted for inflation with base year of 1995). Before promulgating a NHTSA rule for which a written statement is needed, section 205 of the UMRA generally requires the Agency to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows the Agency to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Agency publishes with the final rule an explanation of why that alternative was not adopted.

This final rule would not result in any expenditure by State, local, or tribal governments or the private sector of more than \$100 million, adjusted for inflation.

I. National Environmental Policy Act

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. The Agency has determined that implementation of this action would not have any significant impact on the quality of the human environment.

J. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 et seq.), the Office of Information and Regulatory Affairs designated this rule as not a “major rule” as defined by 5 U.S.C. 804(2).

K. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

L. Privacy Act

Please note that anyone can search the electronic form of all documents received into any of our dockets by the name of the individual submitting the document (or signing the document, if submitted on behalf of an association, business, labor union, etc.). You may review DOT’s complete Privacy Act Statement in the Federal Register published on April 11, 2000 (65 FR 19477–78), or online at https://www.transportation.gov/privacy/.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Reporting and recordkeeping requirements, Tires.

In consideration of the foregoing, NHTSA amends 49 CFR part 571 as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

■ 1. The authority citation for part 571 of Title 49 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.95.

■ 2. Amend § 571.109 by revising the section heading and paragraph S2 to read as follows:

§ 571.109 Standard No. 109; New pneumatic tires for vehicles manufactured from 1949 to 1975, bias ply tires, and T-type spare tires.

\* \* \* \* \*

S2. Application. This standard applies to new pneumatic radial tires for use on passenger cars manufactured from 1949 through 1975, new pneumatic bias ply tires, and T-type spare tires. However, it does not apply to any tire that has been so altered so as to render impossible its use, or its repair for use, as motor vehicle equipment.

\* \* \* \* \*

■ 3. Amend § 571.110 by revising paragraphs S2, S4.1(b)(2), and S4.4.2(e)(1) to read as follows:

§ 571.110 Tire selection and rims and motor home/recreation vehicle trailer load carrying capacity information for motor vehicles with a GVWR of 4,536 kilograms (10,000 pounds) or less.

\* \* \* \* \*

S2. Application. This standard applies to motor vehicles with a gross vehicle weight rating (GVWR) of 4,536 kilograms (10,000 pounds) or less, except for motorcycles, and to non-pneumatic spare tire assemblies for those vehicles.

\* \* \* \* \*

S4.1 \* \* \*

(b) \* \* \*  
 (2) Trailers may be equipped with ST tires, FI tires, or tires with a rim diameter code of 12 or below that meet the requirements of § 571.119.

\* \* \* \* \*

S4.4.2 \* \* \*

(e) \* \* \*

(1) Any manufacturer that elects to express the date of manufacture by means of a symbol shall notify NHTSA in writing of the full names and addresses of all manufacturers and brand name owners utilizing that symbol and the name and address of the trademark owner of that symbol, if any. The notification shall describe in narrative form and in detail how the month, day, and year or the month and year are depicted by the symbol. Such description shall include an actual size graphic depiction of the symbol, showing and/or explaining the interrelationship of the component parts of the symbol as they will appear on the rim or single piece wheel disc, including dimensional specifications, and where the symbol will be located on the rim or single piece wheel disc. The notification shall be received by NHTSA not less than 60 calendar days before the

first use of the symbol. The notification shall be mailed to National Highway Traffic Safety Administration, West Building, 1200 New Jersey Ave. SE, Washington, DC 20590. All information provided to NHTSA under this paragraph will be placed in the public docket.

\* \* \* \* \*

- 4. Amend § 571.119 by:
- a. Revising the section heading.
- b. Revising paragraph S1.
- c. Revising paragraph S6.3.
- d. Revising paragraph S7.3(f)(1) and (2).
- e. Revising Table II—Minimum Static Breaking Energy.
- f. Revising Table III—Endurance Test Schedule.

The revisions read as follows:

**§ 571.119 Standard No. 119; New pneumatic tires for motor vehicles with a GVWR of more than 4,536 kilograms (10,000 pounds), specialty tires, and tires for motorcycles.**

\* \* \* \* \*

S1. *Scope.* This standard establishes performance and marking requirements for tires for use on motor vehicles with a GVWR of more than 4,536 kilograms

(10,000 pounds), specialty tires, and tires for motorcycles.

\* \* \* \* \*

S6.3 *High speed performance.* When tested in accordance with the procedures of S7.4, a tire shall meet the requirements set forth in S6.1.1 and S6.1.2(a) and (b). However, this requirement applies only to motorcycle tires and to non-speed-restricted tires of nominal rim diameter code 14.5 or less marked load range A, B, C, or D.

\* \* \* \* \*

S7.3 \* \* \*

(f) \* \* \*

$$(1) W = [(F \times P)/2] \times 10^{-3}$$

Where:

W = Breaking energy in joules (J),  
 F = Force in newtons (N), and  
 P = Penetration in millimeters (mm),

or;

$$(2) W = (F \times P)/2$$

Where:

W = Breaking energy in inch-pounds (in-lb),  
 F = Force in pounds (lb), and  
 P = Penetration in inches (in).

\* \* \* \* \*

TABLE II—MINIMUM STATIC BREAKING ENERGY  
[Joules (J) and Inch-Pounds (in-lb)]

Tire characteristic (mm and inches)	Motorcycle				Light Truck greater than 12 rim diameter code				Tires other than light truck, motorcycle, 12 rim diameter code or smaller						
	7.94 mm	5 1/8"	All 12 rim diameter code or smaller except motorcycle	19.05 mm	3/4"	31.75 mm	1 1/4"	38.10 mm	1 1/2"	19.05 mm	3/4"	31.75 mm	1 1/4"	38.10 mm	1 1/2"
Plunger diameter (mm and inches)	J	in-lb	J	in-lb	in-lb	J	in-lb	J	in-lb	J	in-lb	J	in-lb	J	in-lb
Breaking Energy															
Load Range:															
A	16	150	67	600	2,000					225	2,000				
B	33	300	135	1,200	2,600					293	2,600				
C	45	400	203	1,800	3,200	768	6,800			361	3,200	576	5,100		
D			271	2,400	4,550	892	7,900			514	4,550	734	6,500		
E			338	3,000	5,100	1,412	12,500			576	5,100	971	8,600		
F			406	3,600	5,700	1,785	15,800			644	5,700	1,412	12,500		
G					6,300			2,282	20,200	711	6,300			1,694	15,000
H					6,800			2,598	23,000	768	6,800			2,090	18,500
J								2,824	25,000					2,203	19,500
L								3,050	27,000						
M								3,220	28,500						
N								3,389	30,000						

Note: For rayon cord tires, applicable energy values are 60 percent of those in table.

TABLE III—ENDURANCE TEST SCHEDULE

Description	Load range	Test wheel speed		Test load: Percent of maximum load rating			Total test revolution (thousands)
		km/h	r/m	Step I (7 hours)	Step II (16 hours)	Step III (24 hours)	
Speed-restricted service:							
90 km/h (55 mph) ....	All .....	40	125	66	84	101	352.5
80 km/h (50 mph) ....	C, D .....	48	150	75	97	114	423.0
	E, F, G, H, J, L, M, N .....	32	100	66	84	101	282.0
56 km/h (35 mph) ....	All .....	24	75	66	84	101	211.5
Motorcycle .....	All .....	80	250	<sup>a</sup> 100	<sup>b</sup> 108	117	510.0
All other .....	A, B, C, D .....	80	250	<sup>a</sup> 75	<sup>b</sup> 97	114	510.0
	E .....	64	200	70	88	106	564.0
	F .....	64	200	66	84	101	564.0
	G .....	56	175	66	84	101	493.5
	H, J, L, M, N .....	48	150	66	84	101	423.0

<sup>a</sup> 4 hours for tire sizes subject to high speed requirements S6.3.  
<sup>b</sup> 6 hours for tire sizes subject to high speed requirements S6.3.

\* \* \* \* \*

- 5. Amend § 571.139 by:
- a. Revising paragraph S2;
- b. Revising paragraph S4.1.1(a);
- c. Revising paragraph S6.2.1.1.1;
- d. Revising paragraph S6.3.1.1.1; and
- e. Revising paragraph S6.4.1.1.1.

The revisions read as follows:

**§ 571.139 Standard No. 139; New pneumatic radial tires for light vehicles.**

\* \* \* \* \*

S2 *Application.* This standard applies to new pneumatic radial tires for use on motor vehicles (other than motorcycles and low speed vehicles) that have a gross vehicle weight rating (GVWR) of 10,000 pounds or less and that were manufactured after 1975. This standard does not apply to special tires (ST) for trailers in highway service, tires for use on farm implements (FI) in agricultural service with intermittent highway use, tires with rim diameters of 12 inches and below, T-type temporary use spare tires with radial construction, and light truck tires with a tread depth of 18/32 inch or greater.

\* \* \* \* \*

S4.1.1 \* \* \*

(a) Listed by manufacturer name or brand name in a document furnished to dealers of the manufacturer's tires, to any person upon request, and in duplicate to the Docket Section (No. NHTSA-2009-0117), National Highway Traffic Safety Administration, West Building, 1200 New Jersey Ave. SE, Washington, DC 20590; or

\* \* \* \* \*

S6.2.1.1.1 Mount the tire on a test rim and inflate it to the pressure specified for the tire in the following table:

Tire application	Test pressure (kPa)
Passenger car tires:	
Standard load .....	220
Extra load .....	260
Light truck tires with a nominal cross section ≤295 mm (11.5 inches):	
Load Range C .....	320
Load Range D .....	410
Load Range E .....	500
Light truck tires with a nominal cross section >295 mm (11.5 inches)	
Load Range C .....	230
Load Range D .....	320
Load Range E .....	410

\* \* \* \* \*

S6.3.1.1.1 Mount the tire on a test rim and inflate it to the pressure specified for the tire in the following table:

Tire application	Test pressure (kPa)
Passenger car tires:	
Standard load .....	180
Extra load .....	220
Light truck tires with a nominal cross section ≤295 mm (11.5 inches)	
Load Range C .....	260
Load Range D .....	340
Load Range E .....	410
Light truck tires with a nominal cross section >295 mm (11.5 inches)	
Load Range C .....	190
Load Range D .....	260
Load Range E .....	340

\* \* \* \* \*

S6.4.1.1.1 This test is conducted following completion of the tire endurance test using the same tire and rim assembly tested in accordance with

S6.3 with the tire deflated to the following appropriate pressure:

Tire application	Test pressure (kPa)
Passenger car tires:	
Standard load .....	140
Extra load .....	160
Light truck tires with a nominal cross section ≤295 mm (11.5 inches)	
Load Range C .....	200
Load Range D .....	260
Load Range E .....	320
Light truck tires with a nominal cross section >295 mm (11.5 inches)	
Load Range C .....	150
Load Range D .....	200
Load Range E .....	260

\* \* \* \* \*

Issued in Washington, DC, under authority delegated in 49 CFR 1.95 and 501.5.

**Steven S. Cliff,**  
*Acting Administrator.*

[FR Doc. 2021-18633 Filed 8-30-21; 8:45 am]

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**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

[Docket No. FWS-R2-ES-2018-0104; FF09E21000 FXES11110900000 212]

**RIN 1018-BD35**

**Endangered and Threatened Wildlife and Plants; Threatened Species Status for Bartram's Stonecrop With a Section 4(d) Rule**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), determine threatened species status under the Endangered Species Act of 1973 (Act), as amended, for Bartram's stonecrop (*Graptopetalum bartramii*), a plant known from Arizona and Mexico. We also issue a final rule under the authority of section 4(d) (a "4(d) rule") of the Act that provides measures that are necessary and advisable to provide for the conservation of Bartram's stonecrop. We have determined that designation of critical habitat for Bartram's stonecrop is not prudent.

**DATES:** This rule is effective September 30, 2021.

**ADDRESSES:** This final rule is available on the internet at <http://www.regulations.gov> under Docket No. FWS-R2-ES-2018-0104 and at <https://www.fws.gov/southwest/>. Comments and materials we received, as well as supporting documentation we used in preparing this rule, are available for public inspection at <http://www.regulations.gov> under Docket No. FWS-R2-ES-2018-0104.

**FOR FURTHER INFORMATION CONTACT:** Jeff Humphrey, U.S. Fish and Wildlife Service, Arizona Ecological Services Field Office, 9828 North 31st Avenue, #C3, Phoenix, AZ 85051-2517. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 800-877-8339.

**SUPPLEMENTARY INFORMATION:****Executive Summary**

*Why we need to publish a rule.* Under the Act, a species may be listed as endangered or threatened throughout all or a significant portion of its range. Listing a species as an endangered or threatened species can only be completed by issuing a rule. Further, under the Act, any species that is determined to be an endangered or threatened species requires critical habitat to be designated, to the maximum extent prudent and determinable.

*What this document does.* This rule lists Bartram's stonecrop (*Graptopetalum bartramii*) as a threatened species. This document also finalizes a rule under the authority of section 4(d) of the Act that provides measures that are necessary and advisable to provide for the conservation of Bartram's stonecrop.

*The basis for our action.* Under the Act, we may determine that a species is an endangered or threatened species based on any of five factors: (A) The present or threatened destruction,

modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. We have determined that Bartram's stonecrop faces the following threats: Reduction in water availability (Factors A and E); erosion, sedimentation, and burial (Factors A and E); trampling (Factor E); altered fire regime (Factors A and E); loss of shade (Factors A and E); altered flooding regime (Factors A and E); drought (Factors A and E); illegal collection (Factor B); and small population size (Factor E). The existing regulatory mechanisms are not adequate to address these threats such that the species does not meet the Act's definition of an endangered or threatened species (Factor D).

Section 4(a)(3) of the Act requires the Secretary of the Interior (Secretary) to designate critical habitat concurrent with listing to the maximum extent prudent and determinable. In this case, we have found that the designation of critical habitat for Bartram's stonecrop is not prudent at this time.

*Peer review and public comment.* A species status assessment (SSA) team prepared an SSA report for Bartram's stonecrop. The SSA team was composed of Service biologists, in consultation with other species experts. The SSA report represents a compilation of the best scientific and commercial data available concerning the status of the species, including the impacts of past, present, and future factors (both negative and beneficial) affecting the species. We sought the expert opinions of three independent and knowledgeable specialists regarding the species status assessment (SSA) report and received responses from two reviewers. These peer reviewers generally concurred with our methods and conclusions, and provided additional information, clarifications, and suggestions to improve the SSA. We also considered all comments and information we received from the public during the comment period for the proposed listing of Bartram's stonecrop.

**Previous Federal Actions**

On December 6, 2019, we published in the **Federal Register** (84 FR 67060) a proposed rule to list Bartram's stonecrop as a threatened species under the Act (16 U.S.C. 1531 *et seq.*). Our proposed rule included a proposed 4(d) rule for Bartram's stonecrop. The December 6, 2019, rule also proposed to list the beardless chinchweed (*Pectis*

*imberbis*) as an endangered species and designate critical habitat for the species. We addressed our proposal to list the beardless chinchweed as an endangered species and designate critical habitat for that species in a separate **Federal Register** document on June 15, 2021. Please refer to the December 6, 2019, proposed rule for a detailed description of previous Federal actions concerning Bartram's stonecrop that occurred prior to December 6, 2019.

**Summary of Changes From the Proposed Rule**

In preparing this final rule, we reviewed and fully considered comments from the public on the proposed rule. We did not make any substantive changes to this final rule after consideration of the comments we received. We updated the SSA report (to version 2.0) based on comments and additional information provided as follows:

(1) We included updated survey information provided to the Service and other reports of additional occurrences we received.

(2) We incorporated additional information regarding stressors to specific populations provided by land managers.

(3) We made many small, nonsubstantive clarifications and corrections throughout the SSA report and this rule, including under Summary of Biological Status and Threats, below, in order to ensure better consistency, clarify some information, and update or add new references. We considered whether this additional information altered our analysis of the magnitude or severity of threats facing the species. We conclude that the information we received during the comment period for the proposed rule did not change our previous analysis of the magnitude or severity of threats facing the species or our determination that Bartram's stonecrop is a threatened species.

**I. Final Listing Determination****Background**

Bartram's stonecrop is a small, succulent, perennial plant and a member of the Crassulaceae family. It occurs in shaded evergreen woodlands on rocky canyon overcrops at elevations ranging from 3,500 to 6,800 ft. The species is particularly susceptible to reductions in water availability, altered fire regime, and the effects of small population size. Most populations are very small, with 58 percent of extant populations throughout the range of the species supporting fewer than 50 individuals. These small populations

are particularly vulnerable to extirpation.

#### *Current Condition of Bartram's Stonecrop*

Since 1924, we are aware of three populations that have been extirpated in the United States in recent years, and another that has contracted in size. Currently, 50 extant Bartram's stonecrop populations occur across 12 mountain ranges, nine in southern Arizona and three in northern Mexico. In addition, the southeastern Arizona landscape has experienced many changes since the 1890s, resulting from intensive cattle grazing, water development, and fire suppression (e.g., Bahre 1991, entire). These impacts may have reduced the range or number of populations and individuals. The U.S. populations total 4,628 individuals within occupied habitats that total approximately 7 hectares (17 acres). This estimate includes 10 plants from two U.S. populations (Gardner Canyon East and Thomas Canyon) and one Mexico population (Sierra La Estancia) that have not been revisited since the initial survey in 1980.

Please refer to the December 6, 2019, proposed rule to list Bartram's stonecrop with a species-specific rule under section 4(d) of the Act (84 FR 67060) and the SSA report for a full summary of species information. Both are available on our Southwest Region website at <https://www.fws.gov/southwest/> and at <http://www.regulations.gov> under Docket No. FWS-R2-ES-2018-0104.

### **Regulatory and Analytical Framework**

#### *Regulatory Framework*

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations (50 CFR part 424) set forth the procedures for determining whether a species is an "endangered species" or a "threatened species." The Act defines an endangered species as a species that is "in danger of extinction throughout all or a significant portion of its range," and a threatened species as a species that is "likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range." The Act requires that we determine whether any species is an "endangered species" or a "threatened species" because of any of the following factors:

(A) The present or threatened destruction, modification, or curtailment of its habitat or range;

(B) Overutilization for commercial, recreational, scientific, or educational purposes;

(C) Disease or predation;

(D) The inadequacy of existing regulatory mechanisms; or

(E) Other natural or manmade factors affecting its continued existence.

These factors represent broad categories of natural or human-caused actions or conditions that could have an effect on a species' continued existence. In evaluating these actions and conditions, we look for those that may have a negative effect on individuals of the species, as well as other actions or conditions that may ameliorate any negative effects or may have positive effects.

We use the term "threat" to refer in general to actions or conditions that are known to or are reasonably likely to negatively affect individuals of a species. The term "threat" includes actions or conditions that have a direct impact on individuals (direct impacts), as well as those that affect individuals through alteration of their habitat or required resources (stressors). The term "threat" may encompass—either together or separately—the source of the action or condition or the action or condition itself.

However, the mere identification of any threat(s) does not necessarily mean that the species meets the statutory definition of an "endangered species" or a "threatened species." In determining whether a species meets either definition, we must evaluate all identified threats by considering the expected response by the species, and the effects of the threats—in light of those actions and conditions that will ameliorate the threats—on an individual, population, and species level. We evaluate each threat and its expected effects on the species, then analyze the cumulative effect of all of the threats on the species as a whole. We also consider the cumulative effect of the threats in light of those actions and conditions that will have positive effects on the species, such as any existing regulatory mechanisms or conservation efforts. The Secretary determines whether the species meets the definition of an "endangered species" or a "threatened species" only after conducting this cumulative analysis and describing the expected effect on the species now and in the foreseeable future.

The Act does not define the term "foreseeable future," which appears in the statutory definition of "threatened species." Our implementing regulations at 50 CFR 424.11(d) set forth a framework for evaluating the foreseeable future on a case-by-case basis. The term "foreseeable future" extends only so far into the future as the Services can

reasonably determine that both the future threats and the species' responses to those threats are likely. In other words, the foreseeable future is the period of time in which we can make reliable predictions. "Reliable" does not mean "certain"; it means sufficient to provide a reasonable degree of confidence in the prediction. Thus, a prediction is reliable if it is reasonable to depend on it when making decisions.

It is not always possible or necessary to define foreseeable future as a particular number of years. Analysis of the foreseeable future uses the best scientific and commercial data available and should consider the timeframes applicable to the relevant threats and to the species' likely responses to those threats in view of its life-history characteristics. Data that are typically relevant to assessing the species' biological response include species-specific factors such as lifespan, reproductive rates or productivity, certain behaviors, and other demographic factors.

#### *Analytical Framework*

The SSA report documents the results of our comprehensive biological status review for the species, including an assessment of the potential threats to the species. The SSA report does not represent a decision by the Service on whether the species should be listed as an endangered or threatened species under the Act. It does, however, provide the scientific basis that informs our regulatory decisions, which involve the further application of standards within the Act and its implementing regulations and policies. The following is a summary of the key results and conclusions from the SSA report; the full SSA report can be found at Docket No. FWS-R2-ES-2018-0104 on <http://www.regulations.gov> and at <https://www.fws.gov/southwest/>.

To assess Bartram's stonecrop viability, we used the three conservation biology principles of resiliency, redundancy, and representation (Shaffer and Stein 2000, pp. 306–310). Briefly, resiliency supports the ability of the species to withstand environmental and demographic stochasticity (for example, wet or dry, warm or cold years), redundancy supports the ability of the species to withstand catastrophic events (for example, droughts, large pollution events), and representation supports the ability of the species to adapt over time to long-term changes in the environment (for example, climate changes). In general, the more resilient and redundant a species is and the more representation it has, the more likely it is to sustain populations over time, even

under changing environmental conditions. Using these principles, we identified the species' ecological requirements for survival and reproduction at the individual, population, and species levels, and described the beneficial and risk factors influencing the species' viability.

The SSA process can be categorized into three sequential stages. During the first stage, we evaluated the individual species' life-history needs. The next stage involved an assessment of the historical and current condition of the species' demographics and habitat characteristics, including an explanation of how the species arrived at its current condition. The final stage of the SSA involved making predictions about the species' responses to positive and negative environmental and anthropogenic influences. This process used the best available information to characterize viability as the ability of a species to sustain populations in the wild over time. We use this information to inform our regulatory decision.

#### Summary of Biological Status and Threats

In this discussion, we review the biological condition of the species and its resources, and the threats that influence the species' current and future condition, in order to assess the species' overall viability and the risks to that viability. Bartram's stoncrop occurs between elevations of 3,500 to 6,800 ft in Madrean woodlands with oaks, junipers, pines and species found in more mesic (wet) areas including sycamores, cottonwoods, and willows. The species typically occurs on rocky outcrops in deep, narrow canyons in heavy cover of litter and shade; and typically within 10 meters (m; 32.8 feet (ft)) of flowing or intermittent water. Bartram's stoncrop requires adequate precipitation to maintain soil moisture, cooler temperatures, and humidity in the microenvironment and for germination, growth and reproduction. Based on microhabitats in which the species is typically found, species needs include crevices (with or without soil) for seeds to lodge and germinate, shade and deep leaf litter to help maintain soil moisture, and a humid microhabitat in this arid environment. In addition, the habitat must support sufficient Bartram's stoncrop pollinators (*e.g.*, flies, bees, and butterflies) including plants for pollinator foraging and nesting within pollinator flight distance of Bartram's stoncrop populations. To maintain the species' viability, populations with multiple subpopulations and overall high abundance must be distributed across

the species range and represent a range of environmental conditions. These populations must experience recruitment that exceeds mortality.

Several stressors influence whether Bartram's stoncrop populations will grow to maximize habitat occupancy, which increases the resiliency of a population to stochastic events. We evaluated the past, current, and future stressors (*i.e.*, negative changes in the resources needed by Bartram's stoncrop) that influence the viability of the species. We describe these stressors on viability in detail in chapter 4 of the SSA report (Service 2020a, entire). Stressors that have the potential to affect Bartram's stoncrop's population resiliency include:

- Loss of water in nearby drainages from climate change (drought) and mining;
- Altered fire regime resulting from fires ignited by recreationists, cross-border human activity, and lightning and exacerbated by nonnative plants;
- Altered precipitation, drought, flooding, and freezing regime from current and future climate change;
- Erosion, sedimentation, and burial from mining, recreation trails and roads, cross-border human activity, and post-wildfire runoff;
- Trampling from humans, and trampling and herbivory from wildlife and livestock;
- Illegal collection; and
- Small population size exacerbating all other stressors.

The largest risk to viability of the species is caused by the loss of habitat and includes: (1) Groundwater extraction and prolonged drought that reduce nearby water levels and humidity within Bartram's stoncrop habitat; and (2) altered fire regimes leading to erosion of Bartram's stoncrop habitat, sedimentation and burial of individuals by post-fire runoff, and loss of overstory shade trees. These stressors play a large role in the future viability of Bartram's stoncrop, especially for smaller populations. These stressors are currently reducing and are expected to continue to reduce nearby water levels, shade, and humidity within Bartram's stoncrop habitat or directly impact individuals.

#### Loss of Water

Dewatering of streams from mining operations may lead to overstory canopy losses and subsequent loss of shade, as well as reductions in spring and stream flow and humidity in nearby Bartram's stoncrop populations. The Rosemont Mine Final Environmental Impact Statement (Statement) notes that no Bartram's stoncrop individuals were

found in the project area or the footprint of the associated actions; however, individuals growing in the analysis area could experience indirect impacts from groundwater drawdown (USFS 2013a, p. 676). According to the Statement, the proposed mine pit would create a permanent drawdown of the water table, and groundwater would flow toward the pit and be lost to evaporation (USFS 2013a, p. 339). The Bartram's stoncrop plants growing just southwest of the proposed Rosemont Mine were analyzed in the Rosemont Final Environmental Impact Statement (USFS 2013a, pp. 346–350). The predicted groundwater drawdown in the affected population at the end of active mining is 0.1–5 feet, depending on the site assessed and the model used. At 20 years from the mine closure, the predicted drawdown increases to a maximum of 15–20 feet. The water would be perpetually replenished in part by groundwater from the regional aquifer, and the pit would act as a hydraulic sink. Given that Bartram's stoncrop is consistently found in locations with nearby springs or other water sources, the loss of groundwater and changes in soil moisture and humidity are expected to negatively affect the plant. For example, loss of groundwater in the unmapped spring in Box Canyon/Sycamore Canyon confluence, between Ruelas Spring and the Singing Valley Road residences, could substantially impact Bartram's stoncrop plants growing nearby (just southwest of the proposed Rosemont Mine).

Mining claims, trenching and exploration drilling activities, and a few active and proposed mines are present in Bartram's stoncrop's range. Many currently undeveloped areas of locatable mineral deposits may be explored and/or mined in the future. We do not know the full extent of future mine activity within the range of Bartram's stoncrop; however, a number of proposed mines are identified for development within Bartram's stoncrop habitat. The range of current and projected mining activities varies from 1 to 10 per sky island mountain range with Bartram's stoncrop occurrences (USFS 2012, entire). The loss or reduction of groundwater, stream flow, or spring flow in or near a Bartram's stoncrop population due to mining-related activities could lead to extirpation of that population.

#### Altered Fire Regime

Wildfire frequency in western forests from the mid-1980s to the present has nearly quadrupled compared to 1970–1985. The timing, frequency, extent, and destructiveness of wildfires are



expected to continue to increase (Westerling *et al.* 2006, p. 943), given historical land management actions, an increase in fire starts from cross-border human activity and recreationists (*e.g.*, from campfires, cigarettes, target shooting), nonnative plant invasion, and continuing drought conditions (Westerling *et al.* 2006, p. 940; FireScape 2016, entire; Fire Management Information System 2016, p. 2). Direct impacts of fire include burning of Bartram's stoncrop individuals, resulting in injury, reduction in reproductive structures, or plant mortality. Indirect impacts of fire on Bartram's stoncrop may include increased runoff of floodwaters, post-fire flooding, deposition of debris and sediment originating in the burned area, erosion, changes in vegetation community composition and structure, increased presence of nonnative plants, alterations in the hydrologic and nutrient cycles, and loss of overstory canopy shade essential to maintaining Bartram's stoncrop microhabitat (Griffis *et al.* 2000, p. 243; Crawford *et al.* 2001, p. 265; Hart *et al.* 2005, p. 167; Smithwick *et al.* 2005, p. 165; Stephens *et al.* 2014, p. 42; Ferguson 2014, p. 43; Ferguson 2016a, p. 26). Fire primarily alters hydrology and erosion processes by consumption of the protective canopy, ground cover, and organic matter. When plants and litter are removed by fire, ground surface protection is decreased, less rainfall is intercepted, and less infiltration occurs (Pierson *et al.* 2011, p. 443). The exposed bare soil becomes susceptible to increased runoff generation and sediment detachment and transport (Pierson *et al.* 2011, p. 444). Amplified runoff post-fire carries sediment (Pierson *et al.* 2011, p. 443), causing erosion or burial of Bartram's stoncrop plants.

We are aware of 11 wildfires that occurred in known Bartram's stoncrop sites from 2007–2017, killing some Bartram's stoncrop individuals and removing shade in some sites (Ferguson 2014, pp. 9–10, 15, 28–29; Ferguson 2016a, p. 13; Ferguson 2016b, entire; Ferguson 2017b, p. 32; Ferguson 2017c, p. 2). Although we do not have pre-fire population counts in any population, two of the largest Bartram's stoncrop populations occur in sky island mountain ranges that have had the fewest acres burned from 2010–2017, which indicates these populations may have experienced less of the detrimental effects of fire than smaller populations. Wildfires have burned in all nine sky island mountain ranges of southern Arizona with known Bartram's

stoncrop occurrences within the last decade. Wildfire could potentially cause extirpation of small Bartram's stoncrop populations throughout the range of the species and have negative impacts on larger populations. Bartram's stoncrop seeds are very tiny, reside at or near the soil surface (Shohet 1999, p. 48), and show no characteristics that would promote survival in a wildfire.

The nonnative plants in the uplands surrounding and within Bartram's stoncrop populations include nonnative grass species such as Lehmann's lovegrass and rose natal, both of which have numerous advantages over native grasses. Lehmann's lovegrass resprouts from roots and tiller nodes not killed by hot fire, is not hampered by the reduction in mycorrhizae associated with fire and erosion, responds to winter precipitation when natives grasses are dormant, produces copious seed earlier than native grasses, maintains larger seedbanks than native grasses, and has higher seedling survival and establishment than native grasses during periods of drought (Service 2020a, p. 50). Rose natal is capable of growing in low moisture situations, has prolific seed production, and has stems that root from the nodes (Stokes *et al.* 2011, p. 527). Both species outcompete native plants, reduce structural and spatial diversity of habitats, and increase biomass and fuel loads, increasing the fire frequency. Nonnative grasses have been reported with Bartram's stoncrop individuals in four instances, at Sycamore Canyon, French Joe Canyon, Shaw Canyon, and Juniper Flat populations, and upslope of several populations of Bartram's stoncrop in the Dragoon Mountains, increasing the likelihood of fire occurrence and subsequent impacts to these populations (Heritage Database Management System, E.O. ID 55; Simpson 2017, pers. comm.). Nonnative plant species increase the frequency and severity of wildfires; such wildfires can directly and indirectly impact individuals and populations.

#### *Altered Precipitation, Drought, Flooding, and Freezing Regimes*

The southwestern United States is warming and experiencing severe droughts of extended duration, changes in amount of snowpack and timing of snowmelt, and changes in timing and severity of precipitation and flooding (Garfin *et al.* 2014, entire). The effects of a changing climate are important considerations in the analysis of the stressors to Bartram's stoncrop, including increased nonnative competition (described above) and

altered fire regimes during times of altered precipitation and drought. To analyze the effects of a changing climate to Bartram's stoncrop, we relied on the Intergovernmental Panel on Climate Change's (IPCC) Fifth Assessment (IPCC 2014, entire) and IPCC Climate Change 2013—The Physical Science Basis (IPCC 2013, entire). Four emission scenarios, referred to as Representative Concentration Pathways (RCPs), were developed for the IPCC report (IPCC 2014, p. 57). We evaluated the effects of climate change on Bartram's stoncrop using RCP 4.5 and RCP 8.5 to bracket the range of environmental variability. The IPCC report (2014) expresses confidence that emissions will fall within the RCP 4.5–8.5 range.

Precipitation is bimodal within the mountain ranges where Bartram's stoncrop occurs, with winter snow and rain, and summer monsoon rain. Fall and winter (October through March) precipitation is needed for Bartram's stoncrop germination, and both summer (July and August) and fall (October and November) precipitation is needed for Bartram's stoncrop flower production. Flowering is triggered by fall rains and does not occur during periods of water stress (Shohet 1999, pp. 22, 25, 36, 39). Altered precipitation timing and form (*i.e.*, snow versus rain), as well as reduced precipitation in the winter and spring and prolonged drought, are important stressors influencing the viability of Bartram's stoncrop due to impacts on moisture availability for germination, growth, and flowering. In addition, due to increased nonnative competition during times of reduced precipitation and drought, impacts from these stressors to Bartram's stoncrop populations would be exacerbated.

Altered precipitation timing and form (snow versus rain), as well as reduced winter and spring precipitation and prolonged drought, are currently occurring and projected to increase or be altered from normal in the Southwest (Garfin *et al.* 2014, entire). Recently, there has been a decrease in the amount of snowpack, earlier snowmelt, and increased drought severity in the Southwest (Garfin *et al.* 2013, entire; Garfin 2013b, p. 465). Further, more wintertime precipitation is falling as rain rather than snow in the western United States (IPCC 2013, p. 204; Garfin 2013b p. 465). This means that the amount of runoff in the spring when snow melts is reduced, as is soil moisture. Late winter-spring mountain snowpack in the Southwest is predicted to continue to decline over the 21st century under RCP 4.5 and 8.5 because of increased temperature (Garfin *et al.*

2013, pp. 6, 119). Reduced rain and snow, earlier snowmelt, and drying tendencies cause a reduction in late-spring and summer runoff. Together these effects, along with increases in evaporation, result in lower soil moisture by early summer (Garfin 2013, p. 117).

Precipitation timing and amount impact the germination, growth, and flowering of Bartram's stonecrop, resulting in the loss of individuals and recruitment, and overall reducing the population size. Climatic events such as reduced snowpack, earlier snowmelt, and increased drought are regional and will impact all populations of Bartram's stonecrop.

In the Southwest, the period since 1950 has been warmer than any period of comparable length in at least 600 years, and average daily temperatures for the 2001–2010 decade were the highest in the time period including 1901–2010 (Garfin *et al.* 2013, p. 3). Fewer cold waves and more heat waves occurred over the Southwest during 2001–2010 compared to average decadal occurrences in the 20th century. More frequent hot and fewer cold temperature extremes over most land areas are predicted on daily and seasonal timescales, as global mean surface temperature increases (IPCC 2014, p. 58). Heat waves are predicted to occur with a higher frequency and longer duration (IPCC 2014, p. 58). Occasional cold winter extremes will continue to occur (IPCC 2014, p. 60). Surface temperatures in the Southwest are predicted to increase substantially over the 21st century, with more warming in summer and fall than in winter and spring. Summer heat waves will become longer and hotter, while winter cold snaps will become less frequent but not necessarily less severe (Garfin *et al.* 2013, p. 6; Garfin *et al.* 2014, p. 464).

When temperatures rise, evapotranspiration rates also increase and soil moisture decreases. An increase in evapotranspiration results in water loss from the plant and increases stress on the plant. This increase in stress impacts photosynthesis, respiration, transpiration, water use efficiency, leaf conductance, growth rate, vigor, and gas exchange. These impacts result in reduced growth, flowering, and seed production, and, therefore, reduce overall recruitment and population numbers.

Along with projected warming and increased evapotranspiration, droughts in parts of the Southwest will become hotter, more severe, and more frequent (Garfin *et al.* 2013, pp. 6, 137–138). Future droughts are projected to be substantially hotter, and for major river

basins such as the Colorado River Basin, drought is projected to become more frequent, intense, and longer lasting than in the historical record. This projection of intensified drought conditions on the Colorado River is not due to changes in precipitation, but rather due directly to warming and its effect on reducing soil moisture (Garfin 2013, p. 138).

Although rare species in the southwestern United States evolved with drought, recent changes in temperature and rainfall patterns present stressful conditions of increased magnitude compared to what the species faced. Some species may shift their distributions in response to warming of the climate (McLaughlin *et al.* 2002, p. 6070). However, it is highly unlikely that Bartram's stonecrop would be able to shift its range naturally to keep up with current and high projected rates of climate change due to its overall population decline and inability to maintain current populations. Because plants are not mobile, expanding the distribution of this species is dependent on seed dispersal. Bartram's stonecrop seeds are small and limited in dispersal ability (Ferguson 2020). Given their geographic location in the landscape (*i.e.*, in canyons with springs and streams), it is possible that seeds are transported by water and that populations may have been founded by a single individual plant or seed (Shohet 1999, p. 58). Seeds may also be dispersed via gravity and wind. Seedling distribution studies indicate gravity is the most likely dispersal mechanism as seeds are fusiform shaped (elliptical like a football) (Ferguson 2020, pers. comm.). Further, extant populations are small, which limits the amount of seed production for dispersal. It is highly unlikely that under elevated environmental stress associated with climate change, the species would be able to both maintain populations and colonize new areas with more suitable climate conditions. Thus, localized extirpations over portions of Bartram's stonecrop's range could result.

#### *Erosion, Sedimentation, and Burial*

Bartram's stonecrop typically occurs on steep slopes with erodible soils and in areas susceptible to rock fall, making the plant particularly vulnerable to physical damage to its environment (Phillips *et al.* 1982, p. 10; Shohet 1999, p. 50; Ferguson 2014, p. 42; Ferguson 2016a, pp. 15, 26). Soil erosion can result in the burial of individual plants, loss of soil where the plant is rooted, or dislodgment of plants. While displaced plants may re-root (Shohet 1999, pp. 50–51, 60), it is more likely that these

plants will not survive (Ferguson 2015, p. 2). Soil disturbance and erosion within or above Bartram's stonecrop habitat may occur from a variety of activities, including livestock and wildlife movement; the placement and maintenance of infrastructure, trails, and roads; and recreationists or other individuals traveling along established trails or cross country (Phillips *et al.* 1982, p. 10; Shohet 1999, p. 60; Ferguson 2014, p. 42; NPS 2015, p. 4; Ferguson 2016a, p. 26).

Direct removal of Bartram's stonecrop individuals and substrate due to erosion or burial of individuals may also occur due to the placement of mineral extraction sites and debris piles. Erosion from test pits (an excavation made to examine the subsurface conditions of a potential mine site) has been documented to remove portions of habitat occupied by Bartram's stonecrop in Flux Canyon (Phillips *et al.* 1982, pp. 9–10).

#### *Trampling*

The trampling of individual Bartram's stonecrop plants may occur from a variety of activities, including livestock and wildlife movement; the placement and maintenance of infrastructure, trails, and roads; and recreationists or other individuals traveling along established trails or cross country (Phillips *et al.* 1982, p. 10; Shohet 1999, p. 60; Ferguson 2014, p. 42; NPS 2015, p. 4; Ferguson 2016a, p. 26). Populations may be particularly impacted during periods of unusual recreational use. We considered trampling as a stressor in our analysis of future viability only when it may impact a population with fewer than 50 individuals, as more minor stressors are exacerbated in small populations.

#### *Illegal Collection*

The illegal collection of succulents is known to occur, and is often difficult to detect. Illegal collection of Bartram's stonecrop individuals has been reported, and the effect of collection is more pronounced in small populations. More than half (58 percent) of Bartram's stonecrop populations contain fewer than 50 individuals. The lifespan of Bartram's stonecrop plants has been estimated at 5–10 years, allowing sufficient time for discovery and collection.

Bartram's stonecrop is an attractive and small plant not available from nurseries that can be easily collected by gardeners and succulent enthusiasts. This stressor was first noted in 1982, when exact localities were excluded from a summary report due to the possibility of illegal collection. Tagged

individuals were uprooted and taken from two sites in the Santa Rita Mountains in 1997–1998. Plants in close proximity to trails have higher discovery potential and are therefore more likely to be collected. Collectors advertise in internet forums seeking Bartram’s stoncrop seedlings or rooted cuttings. The similar southern Arizona species, *Graptopetalum rusbyi* (San Francisco leatherpetal), is cultivated and legally available for sale from plant nurseries. However, Bartram’s stoncrop is more difficult to propagate and maintain in captivity and is therefore vulnerable to collection from the wild because collectors cannot find them for purchase in nurseries. Small populations may not be able to recover from collection, especially if mature, reproductive Bartram’s stoncrop individuals are removed. The removal of mature plants reduces the overall reproductive effort of the population, thereby reducing the overall resilience of the population. While documented instances of collection are limited, the impacts from collection can be profound for small populations.

*Small Populations*

Small population size affects Bartram’s stoncrop population resiliency, as all stressors are exacerbated in populations with only a small number of individuals (fewer than 50). Small populations are less able to recover from losses caused by random environmental changes (Shaffer and Stein 2000, pp. 308–310), such as fluctuations in reproduction (demographic stochasticity), variations in rainfall (environmental stochasticity), or changes in the frequency or severity of disturbances, such as wildfires. Twenty-nine of the 50 extant Bartram’s stoncrop populations in the United States contain fewer than 50 individuals. Losses due to mining, erosion, trampling, collection, herbivory, fire, severe frost, or other stressors mentioned above are exacerbated in small populations and have the potential to seriously damage or completely remove these small populations.

In summary, the stressors that pose the largest risk to future species viability are primarily related to habitat changes:

Groundwater extraction from mining, long-term drought, and alteration in wildfire regime. These stressors may reduce nearby water levels, shade, and humidity within Bartram’s stoncrop habitat and may directly impact individuals. Other important stressors include erosion or trampling from livestock, wildlife, or human activities; illegal collection; herbivory of Bartram’s stoncrop individuals or their shade trees by wildlife and insects; abnormal freezing or flooding events; or other stressors that have the potential to seriously damage or completely remove small populations. Synergistic interactions among altered precipitation, nonnative grasses, drought, and increased temperatures cumulatively and cyclically impact Bartram’s stoncrop, and all stressors are exacerbated in small populations.

*Population Resiliency of Bartram’s Stoncrop*

To determine current condition, we assessed each population in terms of its resiliency. Our analysis of the past, current, and future stressors on the resources that Bartram’s stoncrop needs for long-term viability revealed a number of stressors influencing this species. Four Bartram’s stoncrop populations contain nonnative grasses, and nonnative grasses are present upslope from several additional populations. Further, altered fire regimes have the potential to affect all Bartram’s stoncrop populations. This altered fire regime enhances the spread of nonnatives. Consequently, all Bartram’s stoncrop populations will be further impacted by nonnative grasses in the future. Altered precipitation, increased temperatures, increased evapotranspiration, decreased soil moisture, and decreased winter and spring precipitation are current and ongoing environmental conditions impacting all populations of Bartram’s stoncrop and exacerbating an altered fire regime.

Many currently undeveloped areas of locatable mineral deposits may be explored or mined in the future. We do not know the full extent of future mine activity within Bartram’s stoncrop’s range; however, 12 mining projects are currently ongoing or proposed within 8

kilometers (5 miles) of Bartram’s stoncrop populations in Arizona. The range of current and projected mining activities varies from 1 to 10 per mountain range with Bartram’s stoncrop occurrences (USFS 2012, entire). One population, Sycamore Canyon (115 adult individuals in 2016), would be affected by groundwater drawdown due to the Rosemont Mine. Sycamore Canyon currently exhibits high resiliency. Further, this species is illegally collected and sold. Synergistic interactions among wildfire, nonnative grasses, decreased precipitation, and increased temperatures cumulatively and cyclically impact Bartram’s stoncrop, and all stressors are exacerbated in small populations. In addition, over half of extant Bartram’s stoncrop populations are small; therefore, loss due to erosion, trampling, collection, herbivory, fire, severe frost, or other stressors have the potential to seriously damage or completely remove these small populations.

Resiliency categories of low, moderate, and high are characterized by relative levels of abundance, number of subpopulations and the spatial distribution of groups, seed production, recruitment, and extent of suitable habitat. The categories of conditions used to determine population resiliency are further described in the SSA report (Service 2020a, table 5.12) and the proposed listing rule (84 FR 67060, December 6, 2019, p. 84 FR 67069). Of the 50 extant populations, 2 populations (4 percent) exhibit high resiliency (also described as high condition), 40 populations (80 percent) are in moderate condition, and 8 populations (16 percent) are in low condition. Many small populations exhibit moderate resiliency due to other demographic and habitat factors considered in the analysis of resiliency including number of subpopulations, recruitment, riparian elements, precipitation, and shade. Thus, the resiliency analysis of a population with a low abundance score and high scores in several or all the other categories of resiliency factors may result in an averaged score in the moderate resiliency category. The current resiliency of the known Bartram’s stoncrop populations is shown in table 1.

TABLE 1—BARTRAM’S STONCROP CURRENT POPULATION RESILIENCY

Sky island	Population	Number of individuals	Current resiliency
Baboquivari .....	Brown Canyon .....	115	Moderate.
	Sabino Wash .....	3	Low.
	Thomas Canyon .....	10	Moderate.
Chiricahua .....	Echo Canyon .....	186	Moderate.

TABLE 1—BARTRAM’S STONECROP CURRENT POPULATION RESILIENCY—Continued

Sky island	Population	Number of individuals	Current resiliency
Dragoon	Indian Creek	0	Extirpated.
	Carlink Canyon	0	Extirpated.
	Jordan Canyon	415	Moderate.
	Sheephead	45	Moderate.
	Slavin Gulch	9	Moderate.
	Stronghold Canyon East	388	Moderate.
	Stronghold Canyon West	557	High.
Empire	Empire Mountains	0	Extirpated.
Mule	Juniper Flat	798	Moderate.
Pajarito-Atascosa	Alamo Canyon	134	Moderate.
	Holden Canyon	9	Low.
	Sycamore Canyon	313	High.
Patagonia	Warsaw Canyon	13	Moderate.
	Alum Gulch	52	Moderate.
	Flux Canyon	123	Moderate.
Rincon	Bear Creek	171	Moderate.
	Chimenea-Madrona Canyon	29	Low.
	Chimenea Canyon Side Branch	35	Moderate.
	Distillery	3	Moderate.
	Happy Valley North	1	Low.
	Happy Valley South	41	Moderate.
	Italian Spring Canyon	30	Moderate.
	North Branch Turkey Creek	11	Moderate.
	Posta Quemada	3	Moderate.
	Rincon Creek	38	Moderate.
	Rincon Peak	2	Moderate.
	Shaw Canyon	19	Moderate.
	South Branch Turkey Creek	7	Moderate.
	Tanque Verde Ridge Trail	90	Moderate.
	Tres Pipas Canyon	4	Moderate.
	West Branch Deer Creek	10	Moderate.
	Santa Rita	Adobe Canyon	82
Bond Canyon		51	Moderate.
Cave Canyon		50	Moderate.
Gardner Canyon East		10	Moderate.
Gardner Canyon West		14	Moderate.
Josephine Canyon		76	Moderate.
Madera Canyon		145	Moderate.
Sawmill Canyon		36	Moderate.
Squaw Gulch		55	Moderate.
Sycamore Canyon		115	Moderate.
Temporal Gulch		27	Moderate.
Walker Canyon		19	Moderate.
Whetstone		Deathtrap Canyon	135
	French Joe Canyon	87	Low.
	Guindani Canyon	3	Moderate.
Sierra Las Avispas, Sonora	Sierra Las Avispas	2	Low.
Sierra La Escuadra, Chihuahua	Near Colonia Pacheco	46	Low.
Sierra La Estancia, Chihuahua	Cuarenta Casas	10	Low.

*Bartram’s Stonecrop Representation*

No genetic studies have been conducted within or among the 53 Bartram’s stonecrop historical populations in southern Arizona and Mexico. Mountain ranges that have only one or two populations, or have only one subpopulation per population, or low numbers of individuals per population with several miles between mountain ranges, may not be as genetically diverse because pollination or transport of seeds between populations may be very limited or nonexistent. Some genetic exchange likely occurs within populations containing many subpopulations,

groups, or in populations with high abundance.

However, Bartram’s stonecrop may exhibit some level of genetic diversity in response to elevational and other environmental variation between locations. The species occurs on multiple substrate types and at a range of elevations (3,500 to 6,800 feet), providing potential for local adaptation and genetic differentiation among populations. This range in elevation provides a variety of climatic conditions for the species to inhabit. Due to the loss of four populations, it is possible that there has been a loss of genetic diversity.

In three populations, plants have been reported over many decades, indicating that these populations may have the genetic and environmental diversity to adapt to changing conditions. The species currently occurs across 50 populations in 12 mountain ranges; therefore, we expect some level of genetic diversity exists among mountain ranges.

*Bartram’s Stonecrop Redundancy*

Bartram’s stonecrop populations in the United States and Mexico are naturally fragmented between mountain ranges. Currently, 50 extant Bartram’s stonecrop populations are spread across

12 different mountain ranges in southern Arizona and northern Mexico. Although this may imply some level of redundancy across the range of Bartram's stoncrop, 43 of the 50 extant populations contain fewer than 150 total individual plants. Further, 29 populations have 50 individuals or fewer, and 3 populations have been extirpated over recent (approximately 10) years. Given the distance of the mountain ranges with Bartram's stoncrop populations from each other, natural gene exchange or re-establishment following extirpation of populations within a mountain range is unlikely. In addition, the Mule Mountains contain a large number of Bartram's stoncrop individuals, but are represented by a single population approximately 38 kilometers (23.6 miles) away from the nearest population, making natural re-establishment of populations unlikely.

#### *Future Condition of Bartram's Stoncrop*

We used the best available information to forecast the future viability of Bartram's stoncrop. Maintaining multiple resilient populations over time (viability) depends on moisture in the microenvironment maintained by shade from overstory vegetation, spring and winter precipitation, proximity to water, and vegetation litter. We expect all extant Bartram's stoncrop populations to experience changes to these habitat characteristics to varying degrees. In addition, direct impacts to Bartram's stoncrop through being dislodged, buried, or collected will continue to impact the species.

We note that, by using the SSA framework to guide our analysis of the scientific information documented in the SSA report, we have not only analyzed individual effects on the species, but we have also analyzed their potential cumulative effects. We incorporate the cumulative effects into our SSA analysis when we characterize the current and future condition of the species. Our assessment of the current and future conditions encompasses and incorporates the threats individually and cumulatively. Our current and future condition assessment is iterative because it accumulates and evaluates the effects of all the factors that may be influencing the species, including threats and conservation efforts. Because the SSA framework considers not just the presence of the factors, but to what degree they collectively influence risk to the entire species, our assessment integrates the cumulative

effects of the factors and replaces a standalone cumulative effects analysis.

Acknowledging inherent uncertainties regarding the scope of the stressors manifesting and the species' response, we forecasted future conditions of Bartram's stoncrop under four plausible future scenarios (see chapter 6 of the SSA report; Service 2020a, pp. 104–124). The scenarios span a range of potential stressors that are occurring or will occur in the future that will influence the future status of the species and the effects of those stressors on the species. We analyzed future projections in 10-year and 40-year timeframes because this is within the range of predictions of available hydrological and climate change model forecasts and is within the period of the Rosemont Mine effects. Forty years represents eight generations of Bartram's stoncrop, which allows us to assess reproductive effects on the species and allows populations to have opportunities to rebound. The 10-year time step also represents a reasonable timeframe to judge the species' short-term vulnerability to stressors at the current level, without projecting changes to stressors that longer timeframes would provide. Thus, the future scenarios forecast the viability of Bartram's stoncrop over the next 40 years. The following stressors were considered at different levels of impact for each scenario:

- Mining activity—water extraction, excavation, burial, shade reduction;
- Altered fire regime—lightning, recreation, cross-border human activity, nonnative plants;
- Climate effects (water)—reduction in available water including precipitation, soil moisture, humidity, surface water, aquifer recharge, reduction in riparian vegetation, increased number of days without water;
- Climate effects (other)—dislodging from flooding events, seedling desiccation, flowering halt, shade removed; and
- Effects to individual plants (applied to populations with fewer than 50 individuals)—recreation, collection, trampling, livestock or wildlife grazing and herbivory.

The levels of stressors assessed in each scenario are described in greater detail in chapter 6 of the SSA report (Service 2020a, pp. 104–124).

The first scenario (“continuation”) evaluates the condition of Bartram's stoncrop if impacts from drought, climate change, and other stressors continue as in the near past, while the other scenarios evaluate the response of the species to changes in those risks.

Scenario 1 is evaluated at the 10-year time step. The second scenario (“conservation”) assumes impacts from drought, climate change, and other stressors continue as in the near past and also takes into account realistically possible additional protective measures, which may or may not happen. Scenarios 2, 3, and 4 are evaluated at the 40-year time step. The third scenario (“moderate effects”) assesses an increase in stressors to populations with changes in climate as projected in a lower (RCP 4.5) emissions scenario along with increases in other stressors. The final scenario (“major effects”) assesses a further increase in stressors to populations, with changes in climate projected at a higher (RCP 8.5) emissions scenario, and with additional increases in other stressors. These scenarios are described in more detail in chapter 6 of the SSA report (Service 2020a).

In scenario 1, we assess impacts to Bartram's stoncrop from drought, climate change, and other stressors that continue as in the near past. Based on climate change projections, emissions will continue at the same rate as the near past, resulting in continued impacts to the species. In this scenario, we expect the viability of Bartram's stoncrop to be characterized by a loss of resiliency, representation, and redundancy from the current levels. At the 10-year time step, no populations would exhibit high resiliency, 9 populations would exhibit moderate resiliency, 41 populations would exhibit low resiliency and be more susceptible to loss, and no additional populations would be extirpated.

In scenario 2, we assess impacts to Bartram's stoncrop from drought, climate change, and other stressors that continue as in scenario 1 but with conservation measures implemented that provide a benefit to the species (e.g., nonnative control, forest thinning, and prevention of human-caused wildfire). Climate change impacts are projected to continue at the current rate, and no conservation measures address drying of habitat. In this scenario, we expect the viability of Bartram's stoncrop to be characterized by similar levels of representation and redundancy and slightly lower levels of resiliency than it exhibits under the current condition. Because current stressors remain in place, conservation measures improve the resiliency of populations, but this effect is overshadowed by the impact of continued climate change and drought at the current level.

The third scenario assesses “moderate effects” to Bartram's stoncrop with impacts to the species evaluated at the

40-year time step. Under this scenario, water flow reduction due to drought and groundwater extraction continues to reduce the humid microhabitat for this species. Cross-border traffic continues, and risk of catastrophic wildfire is high due to dry conditions; invasion of nonnatives in the uplands; and increased risk of fire starts from illegal activity, recreation, and natural causes. Mining impacts individuals in the Patagonia and Santa Rita Mountains. Collection, trampling, freezing, herbivory, and human impacts also continue at current or increased levels.

Under this scenario, within the 40-year timeframe, we expect Bartram's stonecrop's viability to be characterized by lower levels of resiliency, representation, and redundancy than it has currently, which are already reduced as described above. In 40 years,

we expect that none of the 50 extant populations would exhibit high resiliency, 2 populations would exhibit moderate resiliency, 35 populations would exhibit low resiliency, and 13 additional populations would be extirpated, further reducing species redundancy and representation (table 2, below; see table 6.6 in the SSA report (Service 2020a)). Under the moderate effects scenario, because of stressors described above, 45 populations would be reduced from their current condition (for population level projections, see figure 6.3 and table 6.6 in the SSA report (Service 2020a)). In this scenario, two of the three small populations in Mexico will be extirpated due to the amount of nonnatives contributing to fire, reduction in precipitation, increase in drought, and low resiliency of a small population.

Under scenario 4, "major effects", we expect the viability of Bartram's stonecrop to be characterized by lower levels of resiliency, representation, and redundancy than under scenario 3. At the 40-year time step, no populations exhibit high resiliency, one would exhibit moderate resiliency, 16 would exhibit low resiliency, and 36 populations would be extirpated, further reducing redundancy and connectivity.

Please refer to the SSA report (Service 2020a, entire) for a more detailed discussion of our evaluation of the biological status of Bartram's stonecrop, the influences that may affect its continued existence, and the modeling efforts undertaken to further inform our analysis.

TABLE 2—BARTRAM'S STONECROP POPULATION CURRENT AND FUTURE RESILIENCY

Mountain range	Population name	Current condition	Scenario 1	Scenario 2	Scenario 3	Scenario 4
Baboquivari	Brown Canyon	Moderate	Moderate	Moderate	Moderate	Low
	Sabino Wash	Low	Low	Low	Low	Extirpated.
Chiricahua	Thomas Canyon	Moderate	Low	Low	Low	Low
	Echo Canyon	Moderate	Moderate	Moderate	Low	Low
Draoon	Indian Creek	Extirpated	Extirpated	Extirpated	Extirpated	Extirpated.
	Carlink Canyon	Extirpated	Extirpated	Extirpated	Extirpated	Extirpated.
Empire	Jordan Canyon	Moderate	Moderate	Moderate	Low	Low
	Sheephead	Moderate	Low	Low	Low	Low
	Slavin Gulch	Moderate	Low	Low	Low	Extirpated.
	Stronghold Canyon E.	Moderate	Moderate	Moderate	Low	Low
	Stronghold Canyon W	High	Moderate	Moderate	Moderate	Moderate.
	Empire Mts	Extirpated	Extirpated	Extirpated	Extirpated	Extirpated.
	Mule	Juniper Flat	Moderate	Low	Moderate	Low
Pajarito-Atascosa	Alamo Canyon	Moderate	Low	Low	Low	Low
	Holden Canyon	Low	Low	Low	Extirpated	Extirpated.
	Sycamore Canyon	High	Moderate	Moderate	Low	Low
	Warsaw Canyon	Moderate	Low	Low	Extirpated	Extirpated.
Patagonia	Alum Canyon	Moderate	Low	Low	Extirpated	Extirpated.
	Flux Canyon	Moderate	Low	Low	Extirpated	Extirpated.
Rincon	Bear Creek	Moderate	Moderate	Moderate	Low	Low
	Chimenea-Madrona Canyon	Low	Low	Low	Low	Extirpated.
	Chimenea Canyon Side Branch.	Moderate	Low	Moderate	Low	Extirpated.
	Distillery Canyon	Moderate	Low	Moderate	Extirpated	Extirpated.
	Happy Valley North	Low	Low	Low	Extirpated	Extirpated.
	Happy Valley South	Moderate	Low	Moderate	Low	Extirpated.
	Italian Spring Canyon	Moderate	Low	Low	Low	Extirpated.
	North Branch Turkey Creek	Moderate	Low	Low	Low	Extirpated.
	Posta Quemada Canyon	Moderate	Low	Moderate	Low	Extirpated.
	Rincon Creek	Moderate	Low	Low	Low	Extirpated.
	Rincon Peak	Moderate	Low	Low	Low	Extirpated.
	Shaw Canyon	Moderate	Low	Moderate	Extirpated	Extirpated.
	South Branch Turkey Creek	Moderate	Low	Low	Low	Extirpated.
	Tanque Verde Ridge Trail	Moderate	Moderate	Moderate	Low	Low
	Tres Pipas Canyon	Moderate	Low	Low	Low	Extirpated.
	West Branch Deer Creek	Moderate	Low	Low	Low	Extirpated.
	Santa Rita	Adobe Canyon	Moderate	Low	Low	Low
Bond Canyon		Moderate	Low	Low	Low	Extirpated.
Cave Canyon		Moderate	Low	Low	Extirpated	Extirpated.
Gardner Canyon East		Moderate	Low	Low	Extirpated	Extirpated.
Gardner Canyon West		Moderate	Low	Low	Low	Extirpated.
Josephine Canyon		Moderate	Moderate	Moderate	Low	Low
Madera Canyon		Moderate	Low	Low	Low	Low
Sawmill Canyon		Moderate	Low	Low	Extirpated	Extirpated.
Squaw Gulch		Moderate	Low	Low	Low	Extirpated.
Sycamore Canyon		Moderate	Low	Low	Extirpated	Extirpated.
Temporal Gulch		Moderate	Low	Low	Low	Low
Walker Canyon		Moderate	Low	Low	Low	Extirpated.
Whetstone		Deathtrap Canyon	Moderate	Low	Low	Low
	French Joe Canyon	Low	Low	Low	Low	Extirpated.
Sierra Las Avispas, Sonora	Guindani Canyon	Moderate	Low	Low	Low	Extirpated.
	Sierra Las Avispas	Low	Low	Low	Extirpated	Extirpated.

TABLE 2—BARTRAM'S STONECROP POPULATION CURRENT AND FUTURE RESILIENCY—Continued

Mountain range	Population name	Current condition	Scenario 1	Scenario 2	Scenario 3	Scenario 4
Sierra La Escuadra, Chihuahua.	Near Colonia Pacheco .....	Low .....	Low .....	Low .....	Low .....	Low.
Sierra La Estancia, Chihuahua.	Cuarenta Casas .....	Low .....	Low .....	Low .....	Extirpated .....	Extirpated.

### Summary of Comments and Recommendations

In our December 6, 2019, proposed rule (84 FR 67060), we requested that all interested parties submit written comments on the proposal by February 4, 2020. We also contacted appropriate Federal and State agencies, scientific experts and organizations, and other interested parties and invited them to comment on the proposed rule. Newspaper notices inviting general public comment were published in the Arizona Daily Star on December 9, 2019, and the Sierra Vista Herald on December 13, 2019. We did not receive any requests for a public hearing. All substantive information provided during the comment period either has been incorporated directly into the final rule or is addressed below.

#### Peer Reviewer Comments

In accordance with our joint policy on peer review published in the **Federal Register** on July 1, 1994 (59 FR 34270), and our August 22, 2016, memorandum updating and clarifying the role of peer review of listing actions under the Act, we sought the expert opinions of three appropriate specialists regarding the 2018 SSA report. The peer reviewers have expertise that includes familiarity with Bartram's stonecrop and its habitat, biological needs, and threats. We received responses from two specialists, which informed the SSA report and proposed rule. The purpose of peer review is to ensure that our listing determinations and 4(d) rules are based on scientifically sound data, conclusions, and analyses.

In the development of the final rule, we solicited further expert opinion on stressors and the effect of stressors as analyzed in the SSA from six knowledgeable specialists with scientific expertise that included familiarity with Bartram's stonecrop and its habitat, biological needs, and threats (Service 2020b, entire). We reviewed all comments we received from the specialists for substantive issues and new information regarding Bartram's stonecrop. The reviewers generally concurred with our methods and conclusions, and provided additional information, clarifications, and suggestions to improve the updated SSA

report and final rule. Peer reviewer comments and expert opinions are incorporated into the SSA report (Service 2020a) and this final rule as appropriate.

#### Public Comments

We received 17 public comments in response to the proposed rule. We reviewed all comments we received during the public comment period for substantive issues and new information regarding the proposed rule. Seven commenters provided substantive comments or new information concerning the proposed listing and 4(d) rule for Bartram's stonecrop. Below, we provide a summary of the substantive issues raised in the public comments we received; however, comments outside the scope of the proposed rule, and those without supporting information, did not warrant an explicit response and, thus, are not presented here. Identical or similar comments have been consolidated and a single response provided.

(1) *Comment:* A commenter indicated that the Service did not notify the public of the imminent listing of the species and the public needs more time to respond.

*Response:* On August 8, 2012, we announced our 90-day finding that a petition to list Bartram's stonecrop as endangered or threatened under the Act presented substantial information indicating that listing of the species may be warranted (77 FR 47352). At that time, we requested data or other information from the public regarding the species to inform our status review and determination if listing is warranted. In response to publication of the 90-day finding, increased interest in Bartram's stonecrop and its status led to additional surveys and research beginning in 2013. On October 23, 2017, we sent a letter to interested parties, landowners, and Tribes indicating that an SSA would be conducted for Bartram's stonecrop to inform our listing determination, and we again requested scientific and commercial data or other information on the species.

In addition, the species has been included on our National Listing, which is publicly available on our website, since 2016. We updated the workplan in

May 2019 and listed the 12-month finding for Bartram's stonecrop as a FY 2018 carryover action. The court-ordered settlement agreement of October 11, 2019, that stipulates delivery of a 12-month finding to the **Federal Register** by November 29, 2019, is also publicly available.

Finally, the December 6, 2019, proposed rule (84 FR 67060) opened a 60-day public comment period on the proposed listing and proposed 4(d) rule for Bartram's stonecrop.

As such, we complied with all requirements of the Act and conclude that the public was afforded adequate notice of the proposed listing of Bartram's stonecrop.

(2) *Comment:* Three commenters stated that relying on the conservation biology concepts of resiliency, redundancy, and representation to make the proposed listing determination is improper, as they are not found in the Act or the Service's implementing regulations and their meanings are uncertain, creating confusion if criteria for listing are being followed.

*Response:* The SSA framework is an analytical approach developed by the Service to deliver foundational science for informing decisions under the Act (Smith *et al.* 2018, entire). The SSA characterizes species viability (defined as the ability to sustain populations in the wild over time) based on the best scientific understanding of current and future abundance and distribution within the species' ecological settings using the conservation biology principles of resiliency, redundancy, and representation (Shaffer and Stein 2000, pp. 308–311). To sustain populations over time, a species must have the capacity to withstand: (1) Environmental and demographic stochasticity and disturbances (resiliency), (2) catastrophes (redundancy), and (3) novel changes in its biological and physical environment (representation). A species with a high degree of resiliency, representation, and redundancy is better able to adapt to novel changes and to tolerate environmental stochasticity and catastrophes. In general, species viability will increase and the risk of extinction will decrease with increases in resiliency, redundancy, and

representation (Smith *et al.* 2018, p. 306). The SSA provides decision-makers with a scientifically rigorous characterization of a species' status and the likelihood that the species will sustain populations over time, along with key uncertainties in that characterization. The Bartram's stonecrop SSA provides the best scientific information available to guide a determination of whether or not Bartram's stonecrop is in danger of extinction now or in the foreseeable future.

Notwithstanding our use of resiliency, redundancy, and representation as scientific concepts helpful in assessing and describing a species' viability and extinction risk, we adhere to all requirements of the Act in making our listing determinations. This includes applying the Act's definitions of an endangered species and a threatened species, as well as an assessment of the 5 listing factors (see *Regulatory Framework*, below).

(3) *Comment:* Three commenters suggested the Service's discussion of its proposed 4(d) rule for Bartram's stonecrop conflicts with the Act and erroneously extends the "take" prohibition for fish and wildlife to a plant species.

*Response:* The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to endangered plants. The prohibitions of section 9(a)(2) of the Act, codified at 50 CFR 17.61, make it illegal for any person subject to the jurisdiction of the United States to: Import or export; remove and reduce to possession from areas under Federal jurisdiction; maliciously damage or destroy on any such area; remove, cut, dig up, or damage or destroy on any other area in knowing violation of any law or regulation of any State or in the course of any violation of a State criminal trespass law; deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity; or sell or offer for sale in interstate or foreign commerce an endangered plant. Certain exceptions apply to employees of the Service, the National Marine Fisheries Service, other Federal land management agencies, and State conservation agencies.

The final 4(d) rule for Bartram's stonecrop provides for the conservation of the species by applying all of the prohibitions listed in section 9(a)(2) of the Act and 50 CFR 17.61 that are applicable to an endangered plant, except as otherwise authorized or permitted at 50 CFR 17.61(c)(2) and (3), 50 CFR 17.71(b), and 50 CFR 17.72.

In the December 6, 2019, proposed rule (84 FR 67060, p. 84 FR 67086), we also describe a range of activities that have potential to impact Bartram's stonecrop, including:

- Unauthorized handling or collecting of the species;
- Ground-disturbing activities where the species occurs;
- Activities that would affect pollinators where the species occurs and in the surrounding area;
- Activities that would promote high-severity wildfires where the species occurs;
- Activities that would reduce shade, reduce proximity to water, and lower the water table such that the cooler, humid microenvironment is affected; and
- Herbicide applications where the species occurs.

These activities are provided as examples of actions that may affect Bartram's stonecrop, and as such would be subject to section 7 consultation for projects with a Federal nexus, and are not intended to be a list of prohibitions under the final 4(d) rule for Bartram's stonecrop.

(4) *Comment:* Several commenters stated that Service botanists have not visited sites with Bartram's stonecrop and that if more surveys are done, more plants will be found as Bartram's stonecrop is a small cactus with one-inch flowers that are hard to see. For example, the species has been discovered at 16 new locations since 2015.

*Response:* Bartram's stonecrop is a succulent with specific habitat requirements and is detectable in bloom and out of bloom by trained botanists. All researchers involved with Bartram's stonecrop surveys, including the Service, the National Park Service (NPS), the U.S. Forest Service (USFS), and the Arizona Game and Fish Department, as well as other academic and commercial entities, are experienced in both plant and habitat identification. Increased survey efforts since 2013 by such qualified individuals have led to newly discovered Bartram's stonecrop populations or groups. We are aware of 70 total elemental occurrences (Arizona Game and Fish Department, Heritage Database Management System) in the 50 extant U.S. Bartram's stonecrop populations. Of these, all but seven occurrences from five populations have been located or revisited since 2010 (Service 2020a, tables 5.2–5.11).

Following extensive survey efforts in Arizona and Mexico, we are now aware of 872 new individuals from the United States and Mexico since the SSA report was initially written (Service 2020a,

entire). For example, between 2018 and 2020, numerous surveys for Bartram's stonecrop were conducted in the Rincon Mountains, and 13 additional Bartram's stonecrop populations were located (Service 2020a, pp. 89–90), including 1 population previously considered to be extirpated that contained one individual in 2019 (Service 2020a, p. 15). Similarly, recent surveys in the Santa Rita Mountains resulted in a newly discovered group of 55 individuals in Madera Canyon. We are also now aware of additional information from a private researcher's surveys beginning in 2012. We have incorporated this and all verified information regarding species occurrences in the revised SSA report (version 2.0) and this final rule. Although the newly discovered individuals contribute to the overall abundance of Bartram's stonecrop and may increase the resiliency of some populations, the threats to the species and the effect of those threats on the species remain such that the species is likely to become in danger of extinction within the foreseeable future. This additional information did not alter our conclusion that the species meets the Act's definition of a threatened species.

(5) *Comment:* Four commenters felt that there is not enough evidence to conclude that Bartram's stonecrop populations are declining. Specifically, the Mule Mountains population has increased in size to 798 individuals and the statement in the proposed rule that there has been a contraction in size is outdated.

*Response:* The 2015 survey of the Mule Mountains Juniper Flat population noted 798 individuals. This information is included in the SSA report (Service 2018, pp. 50, 71, 79, 80; Service 2020a, pp. 52, 72, 80, 81) and December 6, 2019, proposed rule (84 FR 67060). Extensive efforts during the 2015 survey located a larger group of plants within the known population. The newly discovered group of 798 plants is located approximately 300 meters from a southernmost group removed in a scouring flood and subsequent drying of the habitat. Therefore, if the larger group of Bartram's stonecrop plants co-occurred with the smaller group, but was not observed, then the overall Juniper Flat population has contracted with the loss of the smaller group. No additional surveys or observed occurrences in the Mule Mountains have been reported to the Service since 2015.

The statement regarding a "general state of population decline" has been removed in this final rule as we acknowledge that populations fluctuate over time. However, we do not expect



populations extirpated due to drying of habitat to rebound over time as suitable habitat conditions would not be present. Specifically, drying of habitat has been linked to decreased abundance and extirpation of populations in the Chiricahua, Dragoon, Empire, Santa Rita, and Rincon mountains, including a group of plants from the largest population at Juniper Flat. In three of these instances, extirpation was associated with the drying of habitat, which rendered it no longer suitable for the species.

(6) *Comment:* Two commenters suggested that the moist canyons where Bartram's stoncrop have been found are associated with the attraction of the public and botanists to these locations, and that survey bias and poor detectability can result in the mischaracterization of Bartram's stoncrop habitat. Several commenters questioned the characterization of Bartram's stoncrop's habitat needs with respect to moisture and proximity to water.

*Response:* The Service completed a robust SSA based on the best available scientific and commercial information. Bartram's stoncrop is a species found in Madrean woodlands, and does not appear to be a riparian species dependent on shallow ground water. The best available information on Bartram's stoncrop indicates the species occurs near water sources (springs, seeps, or intermittent streams), which may provide humidity and create suitable microclimate conditions. The deep, narrow canyons and associated overstory species provide shade during a portion of the day and create a cooler temperature, and the vegetation litter promotes retention of soil moisture and contributes to the humid microenvironment. Of 56 extant Bartram's stoncrop subpopulations with microhabitat condition documented, 78.6 percent were found within 10 meters of an intermittent or perennial streambed, an additional 14.3 percent were found between 11 and 20 meters from an intermittent or perennial streambed, and 7.1 percent were located more than 20 meters from an intermittent or perennial streambed. Researchers searched for plants at varying distances from streambeds, but note most plants were found nearer streambeds. In general, botanists visit many different habitat types in southern Arizona, and few Bartram's stoncrop individuals have been located outside of habitats with relatively humid microhabitat conditions, as described in the SSA report (Service 2020a, pp. 18, 24).

(7) *Comment:* A commenter notes that other Bartram's stoncrop populations are being discovered, and at least one of the presumed extirpated populations (Rincon North) cannot really be determined to be gone.

*Response:* The discovery of 872 additional individuals and new groups of plants in Arizona and Mexico, as described in our response to *Comment* (4), above, represent substantial survey effort by multiple groups. The 2015 survey of the population referenced (referred to as Happy Valley North in the SSA report) did not locate any Bartram's stoncrop individuals. However, in 2019, a single plant was located within this population. We have incorporated the updated information into the revised SSA report and describe the Happy Valley North population as extant. However, we note that one individual does not indicate a robust population and consider this population to be in very poor condition.

(8) *Comment:* A commenter indicated we did not solicit information from Cecile Shohet, who conducted research on Bartram's stoncrop for a Master's of Science thesis.

*Response:* As required by the Act (16 U.S.C. 1533(b)(1)), we based the listing decision on the best available scientific and commercial information. We worked in partnership with numerous agencies and organizations to visit most of the known U.S. locations of Bartram's stoncrop occurrences at least once (with some long-term monitoring initiated), as well as a portion of the Mexico populations. Although information from 1983–2010 is limited, we used the best available information to assess the species' current and future conditions. The U.S. Forest Service, National Park Service, Service, industry surveyors, and other researchers gathering information on Bartram's stoncrop have increased survey efforts since 2013 in suitable habitat in Arizona and Mexico. At a minimum, recent surveys and research on Bartram's stoncrop have occurred each year from 2013 to 2020.

A solicitation for peer review of the SSA report was sent to Ms. Shohet on October 16, 2017, and no response was received. We solicited Ms. Shohet's expert opinion on specific aspects of the SSA and have incorporated all information received following the publication of the December 6, 2019, proposed rule in the revised SSA.

(9) *Comment:* Three commenters stated that there is little to no evidence that drying has contributed to the extirpation of Bartram's stoncrop populations.

*Response:* Bartram's stoncrop occurs only in habitat near water sources with a relatively moist and humid microenvironment and occasionally occurs in lower abundance in habitat farther away from water. As such, we determined that the humid microhabitat conditions are a need for species viability (ability to sustain populations in the wild over time). Changes to required habitat conditions, including drying, are expected to negatively affect Bartram's stoncrop populations and contribute to reductions in abundance and population extirpation. Bartram's stoncrop seedlings are particularly susceptible to desiccation, and resurveys have shown large losses in this size class.

Drying of habitat associated with population or group extirpations has been observed in the Carlink Canyon, Empire Mountains, and Mule Mountains. Extirpations occurring in drying habitat are unlikely to be recolonized since suitable conditions for Bartram's stoncrop are no longer present. When suitable habitat is lost and not restored, Bartram's stoncrop experiences an increased risk of extirpation and extinction.

(10) *Comment:* The commenters stated that several morphological and metabolic characteristics of Bartram's stoncrop are not discussed in the proposed rule despite their important role in determining the habitat requirements of Bartram's stoncrop. These characteristics include a thick waxy covering on the epidermis, Crassulacean acid metabolism that results in stomata only opening at night, a shallow root system, and succulent leaves massed together as a rosette.

*Response:* Crassulacean acid metabolism (CAM) plants minimize photorespiration and save water by separating the steps of carbon dioxide fixation and the Calvin cycle (used to turn carbon dioxide into sugar) in time, between day and night. Reducing photorespiration decreases wasted energy and decreases sugar synthesis. Approximately 6 percent of flowering plants are known to use CAM. CAM species vary widely in the efficacy and use of CAM, and many maintain the ability to conduct photosynthesis without reducing photorespiration during part of the day, part of the season, and/or part of their lifecycle. All or nearly all members of the nearly worldwide plant family Crassulaceae have the ability to perform CAM, and they occupy a range of microhabitats. Most taxa grow in arid habitats such as rocks and rock fissures under otherwise more humid climatic conditions, or in mountain regions in moderately arid

areas, and are largely absent from hot deserts and arid lowlands. Therefore, it is not possible to predict a plant's habitat based solely on knowing that it performs CAM.

Bartram's stonecrop exhibits morphological features characteristic of other Crasulaceae including a waxy covering of the leaves, a shallow root system, and the arrangement of the leaves in a rosette. These features are also found in succulents that occur in drier habitats and may act to promote water conservation, but do not alter the habitat requirements of Bartram's stonecrop.

(11) *Comment:* A commenter noted that hundreds of plants and animals are at the northern fringe of their range in southern Arizona and are common and safe in Mexico.

*Response:* Historical distributions of Bartram's stonecrop populations are focused in southern Arizona, with some disjunct populations in northern Mexico. There have been surveys for this species in Mexico, and numerous biologists from Mexico have been consulted regarding its presence in the country. Habitat has been altered extensively in Mexico, and limited populations of Bartram's stonecrop have been located there; therefore, we do not find it reasonable to conclude that the species is common or safe in Mexico.

(12) *Comment:* A commenter claimed that surveys by Sanchez-Escalante in Mexico were rushed, and occurred in the wrong habitat and at the wrong time of year.

*Response:* The researcher Sanchez-Escalante spent 35 days exploring 55 sites in Sonora and Chihuahua, and covered 6,900 kilometers with a team of trained botanists with the specific aim of locating populations of six identified rare plant species in appropriate habitats. Two new Bartram's stonecrop populations were located and two historical Bartram's stonecrop populations were confirmed out of 11 suitable habitat locations surveyed. These surveys were conducted during the flowering season in late September when the plants are most visible. Therefore, we concluded the Sanchez-Escalante surveys were conducted using appropriate methods. Thus, we base our current understanding of the Bartram's stonecrop occurrences in Sonora and Chihuahua on the best available scientific information.

(13) *Comment:* A commenter mentioned that regular visitation is necessary to attain information on bloom period, seed production, reproduction method, pollinators, precipitation and growth relationships, and genetic diversity.

*Response:* We are aware of limited information regarding the life history and species characteristics the commenter mentioned. The current knowledge of Bartram's stonecrop phenology and reproduction is described in the SSA report (Service 2020a, p. 20). The inflorescence stalks of Bartram's stonecrop individuals grow for 30–40 days in July and August before coming to their full height, with flowers opening primarily between September and November (Kearney and Peebles 1951, p. 361; Phillips *et al.* 1982, pp. 2, 7; Shohet 1999, p. 25). Flowering is triggered by fall rains and does not occur during periods of water stress (Shohet 1999 pp. 22, 25, 36, 39). Seed dispersal occurs from November to December.

Bartram's stonecrop requires pollinators for reproduction. The major pollinators of Bartram's stonecrop are true flies and house flies, although honey bees may also play a role in pollination. Other species that have been noted on Bartram's stonecrop include wasps, butterflies, and bee flies (Shohet 1999, p. 41; Ferguson 2014, p. 26; Ferguson 2017b, p. 13). Fertilization success is greatest in earliest opening flowers, possibly due to more pollinators being available earlier in the season, although having a long period of flowering increases overall chance of pollination (Shohet 1999, p. 57).

The full relationship between precipitation and plant growth in each life stage has not been fully elucidated. However, winter precipitation is needed for germination, although some germination likely occurs following summer rains. Summer (July and August) and fall (October and November) precipitation is needed for flower production. We are supporting current research into the specific microhabitat requirements for Bartram's stonecrop including site characteristics of overstory vegetation, associated plant species, substrate characteristics, litter depth and character, local insolation and shade, soil temperature and soil moisture, and distance to perennial water. These studies will provide information on temperature and humidity parameters throughout the flowering, germination, and early seedling growth of the plants. Further studies will inform conservation and recovery efforts for the species.

(14) *Comment:* A commenter claimed the Service did not do due diligence to list threats or make determinations, but used the petitioner's list of threats. Three commenters also opined that the Service's analysis of stressors and classification of the current condition is speculative and not based on hard data.

*Response:* The Service's determination to list the species is based on a thorough, scientific analysis that was subject to appropriate peer review. Although there are threats noted in common between the Bartram's stonecrop SSA report and the petition to list the species (CBD 2010), there are also differences. The petition calls out mining, livestock grazing, and recreation as the primary threats to Bartram's stonecrop. The SSA analysis determined the following primary influences on viability: Loss of water availability; erosion, sedimentation, and burial; altered fire regime; and loss of shade. We based our analyses on the best available information, which included recent studies of and surveys for Bartram's stonecrop by the National Park Service, U.S. Forest Service, the Service, and private researchers.

(15) *Comment:* A commenter claimed the Service lacks basic knowledge about the biology and habitat requirements of Bartram's stonecrop and is not following the mandate to base listing decisions on the best scientific and commercial data available.

*Response:* We based this final listing determination on the best available scientific and commercial information, and the commenter did not provide any new information for us to consider. The best available information on Bartram's stonecrop indicates the species occurs near water sources (springs, seeps, or intermittent streams), which may provide humidity and create suitable microclimate conditions. The deep, narrow canyons and associated overstory species provide shade during a portion of the day and create a cooler temperature, and the vegetation litter promotes retention of soil moisture and contributes to the humid microenvironment. Additional Bartram's stonecrop biology and habitat research is ongoing, and results will inform future Service actions. In assessing the viability of Bartram's stonecrop, the best available scientific and commercial data provide information about some aspects of species' biology and habitat requirements, but may not represent a full and complete knowledge of the species. We drew reasonable conclusions about other aspects of the species' biology and requirements based on similar species, similar habitats, and best available information.

(16) *Comment:* A commenter indicated that managed livestock and wild ungulate grazing reduce fuels for fires and requested all language relating to domestic livestock threatening Bartram's stonecrop be removed from the SSA report and the rule.

*Response:* Livestock grazing is not noted in the SSA report or the rule as a major threat to Bartram's stonecrop. Rather, the Bartram's stonecrop SSA report concluded that because Bartram's stonecrop typically occurs on steep terrain, the plants are largely protected from grazing. However, trampling may occur when cattle graze in areas where Bartram's stonecrop occurs. Mortality may be caused by direct trampling by livestock (Searle and Meyer 2020, p. 6), and dislodging of soils by the hard edges of hooves may lead to increased erosion or burial of nearby plants, affecting Bartram's stonecrop individuals in areas with livestock grazing pressure. Therefore, while grazing is not a major threat to the species, trampling and direct mortality act as stressors to Bartram's stonecrop in some circumstances, and the effect of livestock is analyzed in the SSA report.

(17) *Comment:* A commenter suggested using past climate data at a local level rather than modelling projections when discussing climate as a threat.

*Response:* In the Bartram's stonecrop SSA report, figures 4.11a–c show both the past and projected mean daily maximum temperatures in Cochise, Pima, and Santa Cruz Counties, Arizona (Service 2020a, pp. 63–67). The data for past mean daily maximum temperatures also indicate increases in temperature in all three counties. Modelling projections based on the Intergovernmental Panel on Climate Change Fifth Assessment report (IPCC 2014, entire) and future climate projections from the National Climate Explorer Tool (USGS 2017a, entire) downscaled to county level were used to discuss climate change and the effects of current and future changes on Bartram's stonecrop. Section 4.3 of the SSA (USFWS 2020, pp. 37–51) describes these modelling projections in greater detail.

(18) *Comment:* A commenter stated that demographic and environmental stochasticity are naturally occurring phenomena for which Bartram's stonecrop plants are very well adapted.

*Response:* Demographic and environmental stochasticity are naturally occurring phenomena (Shaffer 1981, p. 131). However, Bartram's stonecrop populations adapted to naturally occurring phenomena now experience the additional stressors related to a changing fire regime, nonnative species, and the effects of a changing climate beyond the scope of normal occurrence. For example, effects due to a changing climate, coupled with other stressors, can have a cumulative impact resulting in greater than anticipated decline in rare species

(Souther and McGraw 2014, pp. 1471–1472). In addition, populations that experience variability in abundance must maintain a minimum viable population to be able to repopulate after a demographic or environmental stochastic event or catastrophe (Holsinger and Falk 1991, p. 45). Following a stochastic event that extirpates a population, suitable habitat for Bartram's stonecrop must be present, including humidity and shade, to provide conditions for potential recolonization or regrowth. Rangelwide (including Mexico), 29 of the 50 Bartram's stonecrop populations (58 percent) are small (fewer than 50 individuals). When the effect of small population size exacerbates other stressors beyond those naturally occurring phenomena that Bartram's stonecrop has adapted to, population abundance may be reduced to the extent that repopulation does not occur.

(19) *Comment:* Three commenters stated the analysis of mining as a threat is cursory, unsupported, and overstates the likelihood of mining projects occurring within the range of the species. They noted that no mining projects outside of Rosemont are specifically identified and that the Service used an outdated 2012 document/map for this discussion. The commenters also stated that there is no evidence that loss of water from mining operations is a significant threat to Bartram's stonecrop and noted that the shade trees associated with Bartram's stonecrop habitat do not rely on groundwater. Therefore, the proposed rule overstated water drawdown from mining as a threat.

*Response:* Mining is expected to affect Bartram's stonecrop individuals and populations in several ways. The direct removal of Bartram's stonecrop individuals due to erosion or burial from mineral extraction sites, test pits, and debris piles is expected to impact small populations. Fragmentation of Bartram's stonecrop populations due to placement of mining operations and associated activities can interfere with pollination and reproduction (Rathcke and Jules 1993, p. 276). Due to uncertainty regarding the effect of fugitive dust or heavy metal pollution generated by mining operations on Bartram's stonecrop's growth and vigor, these potential stressors were not analyzed. The primary threat to Bartram's stonecrop analyzed with regard to mining was the loss of overstory shade trees due to dewatering of nearby streams and groundwater drawdown.

Bartram's stonecrop-associated shade trees include the following riparian

obligate species: *Salix* sp. (willow), *Populus* sp. (cottonwood), and *Platanus* sp. (sycamore). Within the following Bartram's stonecrop locations, the associated overstory includes riparian trees that provide between 50 and 80 percent shade to the sites: (1) Penasco Canyon: Willow; (2) Stronghold East: Ash; (3) Cave Canyon: Sycamore; (4) Josephine Canyon: Cottonwood and willow; (5) Santa Rita Sycamore Canyon: Ash; (6) Madera Canyon: Sycamore; (7) Jordan Canyon: Cottonwood, ash, and willow; (8) Warsaw/Old Glory Canyons: Willow; (9) Sawmill Canyon: Sycamore; and (10) Death Trap Canyon: Ash. Our response to *Comment* (6), above, describes the importance of riparian shade trees in maintaining the microhabitat needed by Bartram's stonecrop.

Dewatering of streams in the vicinity of mining operations may lead to overstory canopy changes and loss of shade, as well as reduction in spring and stream flow and humidity in nearby Bartram's stonecrop populations. One mine has been proposed in the Santa Rita Mountains. Bartram's stonecrop individuals and populations in the analysis area could experience indirect impacts from groundwater drawdown (USFS 2013a, p. 676). According to the Rosemont Final Environmental Impact Statement (USFS 2013a, p. 339), the proposed mine pit would create a permanent drawdown of the water table, and groundwater flowing toward the pit would be lost to evaporation. The water would be perpetually replenished in part by groundwater from the regional aquifer, and the pit would act as a hydraulic sink. The Bartram's stonecrop plants growing just southwest of the proposed Rosemont Mine were analyzed in the Rosemont Final Environmental Impact Statement (USFS 2013a, pp. 346–350). The predicted groundwater drawdown in the affected population at the end of active mining is 0.1–5 feet, depending on the site assessed and the model used. At 20 years from the mine closure, the predicted drawdown increases to a maximum of 15–20 feet.

In our analysis, we describe a range of potential mining scenarios that may affect Bartram's stonecrop: (1) Ongoing mining activity, (2) one to three new mining activities across the range of the species, and (3) greater than three new mining activities across the range of the species, to represent future levels of stressors to Bartram's stonecrop from mining. We used the information from Coronado National Forest Mining Activity (USFS 2012) to develop these plausible ranges of potential activities. We are not aware of any other sources regarding potential mining activities;

however, we welcome any new information on the likelihood of mining impacts to inform subsequent Service actions.

(20) *Comment:* A commenter notes that Bartram's stoncrop rock habitat should minimize wildfire, erosion, sedimentation, and burial, and that the 12-month finding for *Hexalectris colemanii* concluded that wildfire was not a risk, yet it occurs in the same habitat as Bartram's stoncrop.

*Response:* The crevices in the rock habitat where Bartram's stoncrop occurs provide shade, shelter, and soil moisture retention, and they provide the plant some protection from burning due to a lack of surrounding vegetation serving as fuel for fire in the rocky terrain. However, overstory tree and shrub species that provide shade to Bartram's stoncrop plants may be impacted by fire. Due to the location of plants in crevices or shallow soil pockets in steep canyons, adherence to substrate or soil is tenuous, and plants can be easily dislodged due to post-fire flooding, foot traffic, eroding soil, or falling rocks.

Unlike Bartram's stoncrop, *Hexalectris colemanii* (Coleman's coralroot) is an almost exclusively subterranean species and is likely capable of resprouting following fire. In addition, the threats of nonnative plants (e.g., *Eragrostis lehmanniana* (Lehmann's lovegrass) and *Melinis repens* (rose natal)) were not considered to be threats to the Coleman's coralroot (78 FR 76795; December 19, 2013), but are considered to be a threat to Bartram's stoncrop. These nonnative plants increase fire risk and alter the fire regime (frequency and severity) within Bartram's stoncrop habitat.

We are aware of 11 wildfires that occurred in known Bartram's stoncrop sites from 2007–2017, killing some Bartram's stoncrop individuals and removing shade in some sites. Wildfires have burned in all nine sky island mountain ranges of southern Arizona with known Bartram's stoncrop occurrences within the last decade. Wildfire could potentially cause extirpation of small Bartram's stoncrop populations throughout the range of the species and have negative impacts on larger populations. Bartram's stoncrop seeds are very tiny, reside at or near the soil surface (Shohet 1999, p. 48), and show no characteristics that would promote survival in a wildfire.

(21) *Comment:* Three commenters stated that there is no evidence that erosion, sedimentation, or burial are significant threats to Bartram's stoncrop.

*Response:* Erosion, sedimentation, and burial of Bartram's stoncrop individuals may occur as a result of mining, livestock pressure, recreation trails and roads, flooding events, cross border human activity, and post-wildfire runoff. Bartram's stoncrop is found in crevices or shallow soil pockets in steep canyons where adherence to substrate or soil is necessarily tenuous. Individual plants can be easily dislodged from these positions due to flooding, foot traffic, eroding soil, or falling rocks. Individuals dislodged by erosion and covered by rock fall have been observed in the Rhyolite Canyon subpopulation (Service 2020a, p. 76). Similarly, more than a half dozen individuals dislodged from trailside infrastructure were lost to erosion in the Madera population (Shohet 1999, p. 60). The effects of erosion, sedimentation, and burial and the loss of Bartram's stoncrop individuals are exacerbated in small populations.

(22) *Comment:* Some commenters stated that fire may not be so important for this species and that an altered fire regime poses an uncertain threat to Bartram's stoncrop.

*Response:* The Madrean evergreen woodlands of the sky islands where Bartram's stoncrop occurs have evolved with frequent low-severity fire with an interval of 10 to 30 years between relatively widespread fires in the pine-dominant forests (Swetnam *et al.* 2010, p. 4). Due to a variety of human activities in the landscape (e.g., excessive livestock grazing, fuelwood cutting, nonnative introduction and expansion, and fire suppression starting around the turn of the last century through the mid-1900s), these woodlands now have high fuel loads, and high-severity fires are becoming increasingly more common (Swetnam *et al.* 2010, p. 11; FireScape 2016, entire). There is no evidence that such large, stand-replacing fires occurred historically; for example, fire-scar studies have revealed that only low-intensity surface fire regimes occurred within the range of Bartram's stoncrop for the past three to five centuries (Swetnam *et al.* 2010, p. 15).

Crevices provide shade, shelter, and soil moisture retention, and offer Bartram's stoncrop plants protection from burning due to a lack of surrounding vegetation for fuel in the rocky terrain. Regardless, Bartram's stoncrop individuals have been burned. We are aware of 11 wildfires that occurred in known Bartram's stoncrop sites from 2007–2017, killing some Bartram's stoncrop individuals and removing shade in some sites

(Ferguson 2014, pp. 9–10, 15, 28–29; Ferguson 2016a, p. 13; Ferguson 2016b, entire; Ferguson 2017c, p. 32; Ferguson 2017h, p. 2). Wildfires have burned in all nine sky island mountain ranges of southern Arizona with known Bartram's stoncrop occurrences within the last decade. Wildfire could potentially cause extirpation of small Bartram's stoncrop populations throughout the range of the species and have negative impacts on larger populations. Bartram's stoncrop seeds are very tiny, reside at or near the soil surface (Shohet 1999, p. 48), and show no characteristics that would promote survival in a wildfire.

Indirect threats to the species from fire include increased runoff of floodwaters, post-fire flooding that may scour habitat, deposition of debris and sediment originating in the burned area that could cover individuals, erosion of habitat, changes in vegetation community composition and structure, increased presence of nonnative plants, alterations in the hydrologic and nutrient cycles, and loss of overstory canopy shade essential for maintaining Bartram's stoncrop microhabitat.

(23) *Comment:* A commenter expressed that Bartram's stoncrop should be listed as endangered and critical habitat should be designated.

*Response:* When making a listing decision for a species under the Act, the Service must determine if the current status of the species indicates it is in danger of extinction throughout all or a significant portion of its range (an endangered species) or likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range (a threatened species). In determining whether a species meets either definition, we must evaluate all identified threats by considering the expected response by the species, and the effects of the threats—in light of those actions and conditions that will ameliorate the threats—on an individual, population, and species level. We evaluate each threat and its expected effects on the species, and then analyze the cumulative effect of all of the threats on the species as a whole. We also consider the cumulative effect of the threats in light of those actions and conditions that will have positive effects on the species—such as any existing regulatory mechanisms or conservation efforts. The Secretary determines whether the species meets the Act's definition of an “endangered species” or a “threatened species” only after conducting this cumulative analysis and describing the expected effect on the species now and in the foreseeable future.

We reviewed the potential risk factors (*i.e.*, threats or stressors) that are affecting Bartram's stonecrop now and into the future. While there are multiple stressors affecting Bartram's stonecrop, the best available information indicates that these threats are not immediately impacting Bartram's stonecrop such that the species meets the definition of an endangered species under the Act.

Section 4(a)(3) of the Act requires the Secretary of the Interior (Secretary) to designate critical habitat concurrent with listing to the maximum extent prudent and determinable. The designation of critical habitat may not be prudent if the species is threatened by taking or other human activity and identification of critical habitat can be expected to increase the degree of such threat to the species. Bartram's stonecrop is an attractive and small plant that can be easily collected by gardeners and succulent enthusiasts. This stressor was first noted in 1982, and observed in 1997–1998. Three researchers described the potential for collection of Bartram's stonecrop and factors that may make collection more likely. The lifespan of Bartram's stonecrop plants has been estimated at 5–10 years, allowing sufficient time for discovery and collection. As noted in the August 8, 2012, 90-day finding for this species (77 FR 47352), small populations may not be able to recover from collection, especially if the mature, reproductive plants are removed. The removal of mature plants reduces the overall reproductive effort of the population, thereby reducing the overall resilience of the population. While documented instances of collection are limited, the impacts from collection can be profound for small populations. In this case, we have found that the designation of critical habitat for Bartram's stonecrop is not prudent at this time as it would be likely to put the species at higher risk of collection.

(24) *Comment:* The commenters state that there is no evidence that illegal collection of Bartram's stonecrop individuals is a significant threat and that illegal collection is unlikely due to the short lifespan of the species and difficulty growing it horticulturally.

*Response:* The illegal collection of succulents is known to occur, and is often difficult to detect. Illegal collection of Bartram's stonecrop individuals has been reported, and the threat from it is more pronounced in small populations such as those in which the species occurs. More than half (58 percent) of Bartram's stonecrop populations contain fewer than 50 individuals. The lifespan of Bartram's stonecrop plants has been estimated at

5–10 years, allowing sufficient time for discovery and collection.

Bartram's stonecrop is an attractive and small plant not available from nurseries that can be easily collected by gardeners and succulent enthusiasts. This stressor was first noted in 1982, when exact localities were excluded from a summary report due to the possibility of illegal collection. Tagged individuals were uprooted and taken from two sites in the Santa Rita Mountains in 1997–1998. Plants in close proximity to trails have higher discovery potential and are therefore more likely to be collected. Collectors advertise in internet forums seeking Bartram's stonecrop seedlings or rooted cuttings. The similar southern Arizona species, *Graptopetalum rusbyi* (San Francisco leatherpetal), is cultivated and legally available for sale from cactus nurseries. However, Bartram's stonecrop is more difficult to propagate and maintain in captivity and is therefore vulnerable to collection from the wild because collectors cannot find them for purchase in nurseries. Small populations may not be able to recover from collection, especially if the mature, reproductive plants are removed. The removal of mature plants reduces the overall reproductive effort of the population, thereby reducing the overall resilience of the population. While documented instances of collection are limited, the impacts from collection can be profound for small populations.

(25) *Comment:* The commenters state that there is no evidence that trampling is a significant threat to Bartram's stonecrop.

*Response:* As Bartram's stonecrop is typically found in shady canyons, the possibility of individuals being lost to trampling remains. Trampling of individuals (direct mortality or damage due to crushing) related to recreation activities has been observed historically. Human traffic within Bartram's stonecrop populations can cause soil erosion and plant loss, including damage from researchers. Individual Bartram's stonecrop were trampled in a group of plants that bordered a campsite (Shohet 1999, p. 60). Westland Resources (2013, p. 19) noted that the potential placement of a trail through Bartram's stonecrop populations may impact individual plants. A Bartram's stonecrop plant in a group located within 10 meters (32.8 feet) of a frequently used hiking trail was covered by rock fall (Ferguson 2016a, pp. 14–15). Threats to individuals can be particularly important to small populations.

(26) *Comment:* Some commenters state that altered precipitation, drought,

and flooding regimes pose an uncertain threat to Bartram's stonecrop, and that freezing is not detrimental unless severe.

*Response:* The southwestern United States is warming and experiencing severe droughts of extended duration, decreased stream flows, changes in amount and timing of snow melt, and changes in timing and severity of precipitation and flooding (CLIMAS 2014, entire). The seasonality and general precipitation requirements for Bartram's stonecrop are described in detail in the SSA report (chapter 2, p. 26). Bartram's stonecrop occurs in habitats and microhabitats with a higher soil moisture, humidity, and vegetative community indicative of more mesic conditions than other succulents. Drying of habitats and more arid conditions have been associated with population extirpation. Bartram's stonecrop and its habitat are very susceptible to drought, loss of humidity, increases in temperature, and increased intensity of storms and flooding (NPS 2015, p. 4).

Bartram's stonecrop occurs in Madrean woodlands characterized by warm, wet summers and mild winters. Precipitation within the sky island mountain ranges is bimodal, with winter snow and rain, and summer monsoon rain. Mean annual precipitation in these habitats is 10–17 inches, with more than 50 percent occurring in summer. The winter snow and rain coincide with Bartram's stonecrop seed germination and growth. Winter precipitation is needed for Bartram's stonecrop germination (although some germination likely occurs following summer rains), and both summer (July and August) and fall (captured partially in the October and November “winter” data) precipitation is needed for Bartram's stonecrop flower production.

The current and projected future trends in precipitation in the range of Bartram's stonecrop are discussed in the SSA report's sections 2.6 and 4.5 (Service 2020a, pp. 26, 54–68). The region has experienced serious drought (a prolonged period of abnormally low rainfall) in recent decades (Bowers 2005, p. 421; Garfin *et al.* 2013, p. 3; CLIMAS 2014, entire). Winter precipitation, in particular, has decreased over the past century, as recorded by weather stations within sky island mountain ranges containing Bartram's stonecrop (see SSA report, figures 2.6a–h) (Service 2020a, pp. 27–30). Winter precipitation is projected to decrease in the southwestern United States (IPCC 2013, p. 1080).

Precipitation is projected to decrease in the future with climate change, although it is expected to be more intense when it does occur (Seager *et al.* 2007, p. 1181; Karl *et al.* 2009, pp. 24, 33). Some projections suggest an overall similar amount of precipitation in the Southwest, but that it will be distributed differently in timing and intensity (Zhang *et al.* 2012, p. 390). Most climate change scenarios predict that the American Southwest will also become warmer during the 21st century (Overpeck *et al.* 2012, p. 5; Karl *et al.* 2009, p. 129), and the frequency of droughts is projected to increase by the end of the 21st century.

Continuing drought, increased temperatures, and increased evapotranspiration are expected to reduce vegetation cover and shade in Bartram's stoncrop habitat through overstory tree loss (Ferguson 2014, p. 42). Such tree mortality has already been observed in Bartram's stoncrop populations, negatively impacting available microhabitat (Ferguson 2016a, pp. 12, 17, 26). Drought or reduced water resources disproportionately affect seedlings, as this stage is particularly vulnerable to desiccation.

Bartram's stoncrop plants are almost always located near water sources (springs, seeps, or intermittent streams), but above the floodline (Phillips *et al.* 1982, p. 4; Shohet 1999, p. 22; NPS 2014, p. 2). Crevices above the floodline offer protection from typical flood events. Bartram's stoncrop needs crevices in solid bedrock or in shallow soil pockets on rock ledges and cliffs in deep, narrow canyons above normal flood levels to avoid seeds and plants being washed away during flood events. An increase in the flood frequency or intensity could result in an increase in the number of plants dislodged.

Based on climate change projections, it is likely that the severity of storm events will increase, resulting in more runoff, more severe flooding events, and more erosion and sedimentation affecting populations, especially following wildfire events in the uplands. Rainfall events in the southwestern United States are projected to be less frequent but more intense, and larger flood events are expected to be more common in the future (Karl *et al.* 2009, p. 24). Erosion and soil loss from such storm events may increase with higher peak stream flows. Flooding can remove Bartram's stoncrop individuals occurring near the stream's edge and has the potential to remove entire small populations (Phillips *et al.* 1982, p. 10; The Nature Conservancy 1987, p. 2; Ferguson 2014, p. 42; Ferguson 2016a, p. 26; NPS 2015,

p. 4; Ferguson 2017b, p. 15). One group within a Bartram's stoncrop population was extirpated due to dislodging from a flooding event followed by drying of habitat (The Nature Conservancy 1987, p. 2).

Bartram's stoncrop is susceptible to damage from freezing events (Ferguson 2014, pp. 23, 40). An early season frost was reported in one Bartram's stoncrop population, and a hard frost is suspected of killing all plants in another population (Indian Creek) in 2011. Frost events are not projected to decrease in severity (Kodra *et al.* 2011, p. 3).

Because continuing drought, more severe freezing events, and increased high intensity rainfall events all pose threats to Bartram's stoncrop across the range of the species, this stressor is considered in our analysis of future species viability. We conclude that abnormal freezing events can seriously damage or completely remove small populations.

(27) *Comment:* Three commenters indicated that the Service's conclusion that small and isolated populations are a threat to Bartram's stoncrop is incorrect.

*Response:* Small population size has the potential to decrease Bartram's stoncrop population resiliency, as all stressors are exacerbated in populations with only a small number of individuals. Small populations are less able to recover from losses caused by random environmental changes (Shaffer and Stein 2000, pp. 308–310), such as fluctuations in reproduction (demographic stochasticity), variations in rainfall (environmental stochasticity), or changes in the frequency or severity of wildfires.

Most known Bartram's stoncrop populations are small, with over half of known individuals of the species residing in five populations. Twenty-nine of the 50 extant known Bartram's stoncrop populations (58 percent) rangewide contain fewer than 50 individuals, and 43 populations (86 percent) contain fewer than 150 individuals. The effect of more minor threats such as erosion, trampling, and illegal collection are all increased when Bartram's stoncrop populations are already small.

#### **Determination of Bartram's Stoncrop's Status**

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations (50 CFR part 424) set forth the procedures for determining whether a species meets the definition of an endangered species or a threatened species. The Act defines "endangered species" as a species in danger of extinction throughout all or a

significant portion of its range, and "threatened species" as a species likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The Act requires that we determine whether a species meets the definition of "endangered species" or "threatened species" because of any of the following factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence.

#### *Status Throughout All of Its Range*

After evaluating threats to the species and assessing the cumulative effect of the threats under the section 4(a)(1) factors, we summarize our findings below. We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to Bartram's stoncrop.

Bartram's stoncrop has experienced population declines, and three populations have been lost entirely. Currently, 50 extant Bartram's stoncrop populations contain 4,682 individuals in the United States and Mexico. Four Bartram's stoncrop populations contain nonnative grasses and several more are near nonnative grasses resulting in current habitat loss and continued loss in the future (Factor A). Further, an altered fire regime (Factors A and E) impacts all populations currently or in the near future and drives the spread of nonnatives (Factor A), exacerbating the encroachment of nonnative grasses. Consequently, all remaining populations of Bartram's stoncrop are impacted by nonnative grasses now or will be in the near future. Altered precipitation (Factors A and E), increased temperatures (Factors A and E), and decreased annual precipitation (Factors A and E) are current and ongoing regional conditions that are impacting all populations of Bartram's stoncrop. These environmental conditions exacerbate an altered fire regime, driving the spread of nonnative grasses with competitive advantages over native grasses during periods of drought. Many currently undeveloped areas of locatable mineral deposits may be explored or mined in the future (Factors A and E). The range of current and projected mining activities varies from 1 to 10 per mountain range with Bartram's stoncrop occurrence (USFS 2012, entire). One population, Sycamore

Canyon (115 adult individuals), will be affected by groundwater drawdown due to the Rosemont Mine, which will impact the shade and moist microclimate this species needs (Factor A). This species is known to be collected and sold (Factor B), and plants in close proximity to trails or roads have higher discovery potential and are, therefore, more likely to be collected. Twenty-nine of 50 populations (58 percent) are small (fewer than 50 individuals) (Factor E). Erosion (Factors A and E), trampling (Factor E), collection (Factor B), herbivory (predation) (Factor C), and fire (Factors A and E) have the potential to reduce or completely remove these small populations. Synergistic interactions among wildfire, nonnative grasses, decreased precipitation, and increased temperatures cumulatively and cyclically impact Bartram's stoneweed, and all stressors are exacerbated in small populations (Factor E). The existing regulatory mechanisms (Factor D) do not address the majority of the threats to the species. Conservation efforts have not yet been implemented for this species.

We find Bartram's stoneweed to face increased vulnerability to the current and future threats due to the small population sizes of the majority of populations (Factor E). Small populations are susceptible to the loss of genetic diversity, genetic drift, and inbreeding. Currently 47 populations spread across nine mountain ranges in the United States and three ranges in Mexico exist as single populations (*i.e.*, no subpopulations to provide further resiliency in case of extirpation). The mountain ranges are widely separated (14–42 kilometers (8.7–26 miles) apart) and may not be genetically diverse because pollination or transport of seeds between populations may be very limited. This could mean that between-population genetic diversity may be greater than within-population diversity (Smith and Wayne 1996, p. 333; Lindenmayer and Peakall 2000, p. 200). Further, there may have been a loss of genetic diversity in the three extirpated populations. However, it is likely that the species' genetic representation will be lost given the impacts to populations through the reduction in the number of individuals per population and the loss of populations (Factor E). In addition, it is likely that ecological representation will continue to decline as those populations at lower elevations are lost due to reduced precipitation and increased temperatures (Factor E).

Regulatory mechanisms (Factor D) and other management efforts by USFS and NPS provide some benefit to

Bartram's stoneweed, as the majority of known populations are located on USFS (67 percent of the area of populations) and NPS (22 percent) owned and managed lands. The Coronado National Forest Land and Resource Management Plan (Plan) includes actions to control nonnative invasive species, restore habitat for federally listed species, and contribute to the recovery of federally listed species (USFS 2018, pp. 38, 41, 44, 46, 49, and 175). The Plan recognizes Bartram's stoneweed occurrences on the Coronado National Forest (USFS 2018, pp. 54). The Arizona Department of Agriculture protects native plants including Bartram's stoneweed under the 2009 Arizona Native Plant Law (Arizona Revised Statutes Title 3, Agriculture § 3–903) and removal is restricted to salvage of the plants. However, these efforts have not been able to ameliorate the threat of nonnative plant species and the altered fire regime and effects of drought.

The overall range of the species has not been significantly reduced, although three populations are extirpated due to habitat alteration. Currently, 50 extant populations in 12 mountain ranges provides a level of protection from catastrophic events now and in the near future. While there are multiple stressors to the remaining populations, these stressors are not immediately impacting all populations such that Bartram's stoneweed is currently in danger of extinction. The stressors that pose the largest risk to future species viability are primarily related to habitat changes: Groundwater extraction from mining, long-term drought, and alteration in wildfire regime. These stressors are occurring and impacting Bartram's stoneweed and will continue to do so within the next 40 years. We chose a foreseeable future of 40 years (approximately 2060) because this is within the range of predictions of available hydrological and climate change model forecasts, is within the time period of the Rosemont Mine effects, and represents eight generations of Bartram's stoneweed, which allows us to assess reproductive effects on the species and allows the species opportunities to rebound. The primary sources we examined in determining future scenarios include the RCP 4.5 and 8.5 models in the IPCC (2013 and 2014, entire) and Garfin *et al.* (2013, entire). In addition, we examined literature pertaining to wildfire frequency and severity, including Westerling *et al.* (2006), FireScape (2016), and Fire Management Information System (2016). An increase in temperature results in increased

evapotranspiration rates and soil drying, resulting in the effects of severe droughts becoming more severe (Garfin 2013, pp. 137–138) and wildfires becoming more frequent and of increased intensity. The threats to Bartram's stoneweed act synergistically to influence the viability of the species. For example, decreased water availability and invasion of nonnative grasses promote higher severity and frequency of fires, while the effect of fires in Bartram's stoneweed habitat is to promote nonnative grass invasion and increase the likelihood of post-fire runoff and loss of shade trees.

We find that Bartram's stoneweed is likely to become an endangered species throughout all of its range within the foreseeable future. It is facing threats across its range that have led to reduced resiliency, redundancy, and representation, and we expect the species to continue to decline into the future. Thus, after assessing the best available information, we conclude that Bartram's stoneweed is not currently in danger of extinction, but is likely to become in danger of extinction within the foreseeable future throughout all of its range.

#### *Status Throughout a Significant Portion of Its Range*

Under the Act and our implementing regulations, a species may warrant listing if it is in danger of extinction or likely to become so in the foreseeable future throughout all or a significant portion of its range. The court in *Center for Biological Diversity v. Everson*, 2020 WL 437289 (D.D.C. Jan. 28, 2020) (*Center for Biological Diversity*), vacated the aspect of the Final Policy on Interpretation of the Phrase “Significant Portion of Its Range” in the Endangered Species Act's Definitions of “Endangered Species” and “Threatened Species” (79 FR 37578; July 1, 2014) that provided that the Services do not undertake an analysis of significant portions of a species' range if the species warrants listing as threatened throughout all of its range. Therefore, we proceed to evaluating whether the species is endangered in a significant portion of its range—that is, whether there is any portion of the species' range for which both (1) the portion is significant; and (2) the species is in danger of extinction in that portion. Depending on the case, it might be more efficient for us to address the “significance” question or the “status” question first. We can choose to address either question first. Regardless of which question we address first, if we reach a negative answer with respect to the first question that we address, we do



not need to evaluate the other question for that portion of the species' range.

Following the court's holding in *Center for Biological Diversity*, we now consider whether there are any significant portions of the species' range where the species is in danger of extinction now (*i.e.*, endangered). In undertaking this analysis for Bartram's stonecrop, we choose to address the status question first—we consider information pertaining to the geographic distribution of both the species and the threats that the species faces to identify any portions of the range where the species is endangered.

For Bartram's stonecrop, we considered whether the threats are geographically concentrated in any portion of the species' range at a biologically meaningful scale. We examined the following primary threats to the species: Reduction in water availability; altered fire regime; effects of climate change; and erosion, sedimentation, and burial. Loss due to trampling, collection, herbivory, severe frost, or other stressors also have the potential to impact individual Bartram's stonecrop plants. The effects of these threats are exacerbated in small populations. Altered precipitation, drought, flooding, and freezing regimes from current and future climate change are issues for all Bartram's stonecrop populations. Synergistic interactions among wildfire, nonnative grasses, decreased precipitation, and increased temperatures cumulatively and cyclically impact all Bartram's stonecrop populations. Some populations are expected to be affected by threats due to varying causes. For example, a higher risk of fires as a result of cross-border human activity is expected in the Baboquivari, Chiricahua, Mule, Pajarito-Atascosa, Santa Rita, Patagonia, and Whetstone mountains, while a higher risk of fires as a result of recreationists is expected in the Chiricahua, Dragoon, Pajarito-Atascosa, Patagonia, Rincon, and Santa Rita mountains. We found no concentration of threats in any portion of Bartram's stonecrop's range at a biologically meaningful scale. Thus, there are no portions of the species' range where the species has a different status from its rangewide status. Therefore, no portion of the species' range provides a basis for determining that the species is in danger of extinction in a significant portion of its range, and we determine that the species is likely to become in danger of extinction within the foreseeable future throughout all of its range. This is consistent with the courts' holdings in *Desert Survivors v. Department of the*

*Interior*, No. 16–cv–01165–JCS, 2018 WL 4053447 (N.D. Cal. Aug. 24, 2018), and *Center for Biological Diversity v. Jewell*, 248 F. Supp. 3d, 946, 959 (D. Ariz. 2017).

#### *Determination of Status*

Our review of the best available scientific and commercial information indicates that Bartram's stonecrop meets the Act's definition of a threatened species. Therefore, we are listing Bartram's stonecrop as a threatened species in accordance with sections 3(20) and 4(a)(1) of the Act.

#### **Available Conservation Measures**

Conservation measures provided to species listed as endangered or threatened species under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness, and conservation by Federal, State, Tribal, and local agencies; private organizations; and individuals. The Act encourages cooperation with the States and other countries and calls for recovery actions to be carried out for listed species. The protection required by Federal agencies and the prohibitions against certain activities are discussed, in part, below.

The primary purpose of the Act is the conservation of endangered and threatened species and the ecosystems upon which they depend. The ultimate goal of such conservation efforts is the recovery of these listed species, so that they no longer need the protective measures of the Act. Section 4(f) of the Act calls for the Service to develop and implement recovery plans for the conservation of endangered and threatened species. The recovery planning process involves the identification of actions that are necessary to halt or reverse the species' decline by addressing the stressors to its survival and recovery. The goal of this process is to restore listed species to a point where they are secure, self-sustaining, and functioning components of their ecosystems.

Recovery planning consists of preparing draft and final recovery plans, beginning with the development of a recovery outline and making it available to the public within 30 days of a final listing determination. The recovery outline guides the immediate implementation of urgent recovery actions and describes the process to be used to develop a recovery plan. Revisions of the plan may be done to address continuing or new stressors to the species, as new substantive information becomes available. The

recovery plan also identifies recovery criteria for review of when a species may be ready for reclassification from endangered to threatened (“downlisting”) or removal from protected status (“delisting”), and methods for monitoring recovery progress. Recovery plans also establish a framework for agencies to coordinate their recovery efforts and provide estimates of the cost of implementing recovery tasks. Recovery teams (composed of species experts, Federal and State agencies, nongovernmental organizations, and stakeholders) are often established to develop recovery plans. When completed, the recovery outline, draft recovery plan, and the final recovery plan will be available on our website (<http://www.fws.gov/endangered>), or from our Arizona Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Implementation of recovery actions generally requires the participation of a broad range of partners, including other Federal agencies, States, Tribes, nongovernmental organizations, businesses, and private landowners. Examples of recovery actions include habitat restoration of native vegetation, research, captive propagation and reintroduction, and outreach and education. The recovery of many listed species cannot be accomplished solely on Federal lands because their range may occur primarily or solely on non-Federal lands. To achieve recovery of these species requires cooperative conservation efforts on private, State, and Tribal lands.

Following publication of this final rule, funding for recovery actions will be available from a variety of sources, including Federal budgets, State programs, and cost share grants for non-Federal landowners, the academic community, and nongovernmental organizations. In addition, pursuant to section 6 of the Act, the State of Arizona will be eligible for Federal funds to implement management actions that promote the protection or recovery of Bartram's stonecrop. Information on our grant programs that are available to aid species recovery can be found at <http://www.fws.gov/grants>.

Section 8(a) of the Act (16 U.S.C. 1537(a)) authorizes the provision of limited financial assistance for the development and management of programs that the Secretary of the Interior determines to be necessary or useful for the conservation of endangered or threatened species in foreign countries. Sections 8(b) and 8(c) of the Act (16 U.S.C. 1537(b) and (c)) authorize the Secretary to encourage conservation programs for foreign listed



species, and to provide assistance for such programs, in the form of personnel and the training of personnel.

Please let us know if you are interested in participating in recovery efforts for Bartram's stonecrop. Additionally, we invite you to submit any new information on this species whenever it becomes available and any information you may have for recovery planning purposes (see **FOR FURTHER INFORMATION CONTACT**).

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as an endangered or threatened species and with respect to its critical habitat, if any is designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of any endangered or threatened species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with the Service.

Federal agency actions within the species' habitat that may require conference or consultation or both as described in the preceding paragraph include management and any other landscape-altering activities on Federal lands administered by the U.S. Forest Service (Coronado National Forest), Bureau of Land Management, U.S. Customs and Border Protection, and National Park Service (Chiricahua National Monument and Saguaro National Park).

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to endangered plants. The prohibitions of section 9(a)(2) of the Act, codified at 50 CFR 17.61, make it illegal for any person subject to the jurisdiction of the United States to: Import or export; remove and reduce to possession from areas under Federal jurisdiction; maliciously damage or destroy on any such area; remove, cut, dig up, or damage or destroy on any other area in knowing violation of any law or regulation of any State or in the course of any violation of a State criminal trespass law; deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity; or sell or offer for sale in interstate or foreign commerce an endangered plant. Certain exceptions apply to employees of the Service, the

National Marine Fisheries Service, other Federal land management agencies, and State conservation agencies.

We may issue permits to carry out otherwise prohibited activities involving endangered plants under certain circumstances. Regulations governing permits are codified at 50 CFR 17.62. With regard to endangered plants, a permit may be issued for scientific purposes or for enhancing the propagation or survival of the species. There are also certain statutory exemptions from the prohibitions, which are found in sections 9 and 10 of the Act.

It is our policy, as published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable at the time a species is listed, those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of a final listing on proposed and ongoing activities within the range of a listed species. The discussion below regarding protective regulations under section 4(d) of the Act complies with our policy.

## **II. Final Rule Issued Under Section 4(d) of the Act**

### **Background**

Section 4(d) of the Act contains two sentences. The first sentence states that the Secretary of the Interior (Secretary) shall issue such regulations as he deems necessary and advisable to provide for the conservation of species listed as threatened. The U.S. Supreme Court has noted that statutory language like "necessary and advisable" demonstrates a large degree of deference to the agency (see *Webster v. Doe*, 486 U.S. 592 (1988)). Conservation is defined in the Act to mean the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Additionally, the second sentence of section 4(d) of the Act states that the Secretary may by regulation prohibit with respect to any threatened species any act prohibited under section 9(a)(1), in the case of fish or wildlife, or section 9(a)(2), in the case of plants. Thus, the combination of the two sentences of section 4(d) provides the Secretary with wide latitude of discretion to select and promulgate appropriate regulations tailored to the specific conservation needs of the threatened species. The second sentence grants particularly broad discretion to the Service when adopting the prohibitions under section 9.

The courts have recognized the extent of the Secretary's discretion under this standard to develop rules that are appropriate for the conservation of a species. For example, courts have upheld rules developed under section 4(d) as a valid exercise of agency authority where they prohibited take of threatened wildlife, or include a limited taking prohibition (see *Alsea Valley Alliance v. Lautenbacher*, 2007 U.S. Dist. Lexis 60203 (D. Or. 2007); *Washington Environmental Council v. National Marine Fisheries Service*, 2002 U.S. Dist. Lexis 5432 (W.D. Wash. 2002)). Courts have also upheld 4(d) rules that do not address all of the threats a species faces (see *State of Louisiana v. Verity*, 853 F.2d 322 (5th Cir. 1988)). As noted in the legislative history when the Act was initially enacted, "once an animal is on the threatened list, the Secretary has an almost infinite number of options available to him with regard to the permitted activities for those species. He may, for example, permit taking, but not importation of such species, or he may choose to forbid both taking and importation but allow the transportation of such species" (H.R. Rep. No. 412, 93rd Cong., 1st Sess. 1973).

Exercising this authority under section 4(d), we have developed a rule that is designed to address Bartram's stonecrop's specific stressors and conservation needs. Although the statute does not require the Service to make a "necessary and advisable" finding with respect to the adoption of specific prohibitions under section 9, we find that this rule as a whole satisfies the requirement in section 4(d) of the Act to issue regulations deemed necessary and advisable to provide for the conservation of Bartram's stonecrop. As discussed above under Determination of Bartram's Stonecrop's Status, we have concluded that Bartram's stonecrop is likely to become in danger of extinction within the foreseeable future due to groundwater extraction and prolonged drought expected to reduce nearby water levels and humidity within Bartram's stonecrop's microenvironment, and altered fire regimes leading to erosion of Bartram's stonecrop habitat that could dislodge plants, to sedimentation that could cover individuals, and to loss of overstory shade trees. In addition, collection, trampling, herbivory, flooding, and dislodging and burial from recreationists, cross-border violators, and domestic and wild animals contribute to the risk of extinction within the foreseeable future due to the majority of populations being small and

isolated. The provisions of this 4(d) rule will promote conservation of Bartram's stonecrop by encouraging management of the landscape in ways that meet both land management considerations and the conservation needs of Bartram's stonecrop. The provisions of this rule are one of many tools that the Service will use to promote the conservation of Bartram's stonecrop.

#### Provisions of the 4(d) Rule

This 4(d) rule provides for the conservation of Bartram's stonecrop by prohibiting the following activities, except as otherwise authorized or permitted: Import or export; certain acts related to removing, damaging, and destroying; delivery, receipt, transport, or shipment in interstate or foreign commerce in the course of commercial activity; or sale or offering for sale in interstate or foreign commerce.

As discussed under Summary of Biological Status and Threats, above, multiple factors are affecting the status of Bartram's stonecrop. A range of activities have the potential to impact Bartram's stonecrop, including:

(1) Unauthorized damage or collection of Bartram's stonecrop from lands under Federal jurisdiction; and

(2) Malicious destruction or degradation of the species or associated habitat on lands under Federal jurisdiction, including:

(a) The intentional introduction of nonnative organisms that compete with or consume Bartram's stonecrop;

(b) Ground-disturbing activities that impact the species or its habitat;

(c) Activities that would affect pollinators where the species occurs and in the surrounding area;

(d) Activities that would promote high-severity wildfires where the species occurs; and

(e) Activities that would reduce shade or lower the water table such that the cooler, humid microenvironment is affected.

These activities are provided as examples of actions that may affect Bartram's stonecrop and are not intended to be a list of prohibitions under the final 4(d) rule for Bartram's stonecrop. As a whole, the 4(d) rule will help in the efforts to recover Bartram's stonecrop by prohibiting activities that damage individuals and populations and providing exceptions to those prohibitions for permitted or conservation activities.

We may issue permits to carry out otherwise prohibited activities, including those described above, involving threatened plants under certain circumstances. Regulations governing permits are codified at 50

CFR 17.72, which states that "the Director may issue a permit authorizing any activity otherwise prohibited with regard to threatened species." That regulation also states, "The permit shall be governed by the provisions of this section unless a special rule applicable to the plant is provided in sections 17.73 to 17.78." We interpret that second sentence to mean that permits for threatened species are governed by the provisions of section 17.72 unless a special rule, which we have defined to mean a species-specific 4(d) rule, provides otherwise. We recently promulgated revisions to section 17.71 providing that section 17.71 will no longer apply to plants listed as threatened in the future. We did not intend for those revisions to limit or alter the applicability of the permitting provisions in section 17.72, or to require that every species-specific 4(d) rule spell out any permitting provisions that apply to that species and species-specific 4(d) rule. To the contrary, we anticipate that permitting provisions would generally be similar or identical for most species, so applying the provisions of section 17.72 unless a species-specific 4(d) rule provides otherwise would likely avoid substantial duplication. Moreover, this interpretation brings section 17.72 in line with the comparable provision for wildlife at 50 CFR 17.32, in which the second sentence states, "Such permit shall be governed by the provisions of this section unless a special rule applicable to the wildlife, appearing in sections 17.40 to 17.48, of this part provides otherwise." Under 50 CFR 17.12 with regard to threatened plants, a permit may be issued for the following purposes: For scientific purposes, to enhance propagation or survival, for economic hardship, for botanical or horticultural exhibition, for educational purposes, or for other purposes consistent with the purposes and policy of the Act. Additional statutory exemptions from the prohibitions are found in sections 9 and 10 of the Act.

We recognize the special and unique relationship with our State natural resource agency partners in contributing to conservation of listed species. State agencies often possess scientific data and valuable expertise on the status and distribution of endangered, threatened, and candidate species of wildlife and plants. State agencies, because of their authorities and their close working relationships with local governments and landowners, are in a unique position to assist the Services in implementing all aspects of the Act. In this regard, section 6 of the Act provides

that the Services shall cooperate to the maximum extent practicable with the States in carrying out programs authorized by the Act. Therefore, any qualified employee or agent of a State conservation agency that is a party to a cooperative agreement with the Service in accordance with section 6(c) of the Act, who is designated by his or her agency for such purposes, will be able to conduct activities designed to conserve Bartram's stonecrop that may result in otherwise prohibited activities without additional authorization.

Nothing in this 4(d) rule changes in any way the recovery planning provisions of section 4(f) of the Act, the consultation requirements under section 7 of the Act, or the ability of the Service to enter into partnerships for the management and protection of Bartram's stonecrop. However, interagency cooperation may be further streamlined through planned programmatic consultations for the species between Federal agencies and the Service.

### III. Critical Habitat

#### Background

Critical habitat is defined in section 3 of the Act as:

(1) The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the Act, on which are found those physical or biological features:

(a) Essential to the conservation of the species, and

(b) Which may require special management considerations or protection; and

(2) Specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Our regulations at 50 CFR 424.02 define the geographical area occupied by the species as an area that may generally be delineated around species' occurrences, as determined by the Secretary (*i.e.*, range). Such areas may include those areas used throughout all or part of the species' life cycle, even if not used on a regular basis (*e.g.*, migratory corridors, seasonal habitats, and habitats used periodically, but not solely by vagrant individuals).

Conservation, as defined at section 3 of the Act, means to use and the use of all methods and procedures that are necessary to bring an endangered or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Such methods and procedures include, but

are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

Critical habitat receives protection under section 7 of the Act through the requirement that Federal agencies ensure, in consultation with the Service, that any action they authorize, fund, or carry out is not likely to result in the destruction or adverse modification of critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Such designation does not allow the government or public to access private lands. Such designation does not require implementation of restoration, recovery, or enhancement measures by non-Federal landowners. Where a landowner requests Federal agency funding or authorization for an action that may affect a listed species or critical habitat, the Federal agency would be required to consult with the Service under section 7(a)(2) of the Act. However, even if the Service were to conclude that the proposed activity would result in destruction or adverse modification of the critical habitat, the Federal action agency and the landowner are not required to abandon the proposed activity, or to restore or recover the species; instead, they must implement "reasonable and prudent alternatives" to avoid destruction or adverse modification of critical habitat.

Under the first prong of the Act's definition of critical habitat, areas within the geographical area occupied by the species at the time it was listed are included in a critical habitat designation if they contain physical or biological features (1) which are essential to the conservation of the species and (2) which may require special management considerations or protection. For these areas, critical habitat designations identify, to the extent known using the best scientific and commercial data available, those physical or biological features that are essential to the conservation of the species (such as space, food, cover, and protected habitat). In identifying those physical or biological features that occur in specific occupied areas, we focus on the specific features that are essential to support the life-history needs of the species, including, but not limited to, water characteristics, soil type,

geological features, prey, vegetation, symbiotic species, or other features. A feature may be a single habitat characteristic or a more complex combination of habitat characteristics. Features may include habitat characteristics that support ephemeral or dynamic habitat conditions. Features may also be expressed in terms relating to principles of conservation biology, such as patch size, distribution distances, and connectivity.

Under the second prong of the Act's definition of critical habitat, we can designate critical habitat in areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. When designating critical habitat, the Secretary will first evaluate areas occupied by the species. The Secretary will only consider unoccupied areas to be essential where a critical habitat designation limited to geographical areas occupied by the species would be inadequate to ensure the conservation of the species. In addition, for an unoccupied area to be considered essential, the Secretary must determine that there is a reasonable certainty both that the area will contribute to the conservation of the species and that the area contains one or more of those physical or biological features essential to the conservation of the species.

Section 4 of the Act requires that we designate critical habitat on the basis of the best scientific data available. Further, our Policy on Information Standards under the Endangered Species Act (published in the **Federal Register** on July 1, 1994 (59 FR 34271)), the Information Quality Act (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106-554; H.R. 5658)), and our associated Information Quality Guidelines, provide criteria, establish procedures, and provide guidance to ensure that our decisions are based on the best scientific data available. They require our biologists, to the extent consistent with the Act and with the use of the best scientific data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat.

When we are determining which areas should be designated as critical habitat, our primary source of information is generally the information from the SSA report and information developed during the listing process for the species. Additional information sources may include any generalized conservation strategy, criteria, or outline

that may have been developed for the species; the recovery plan for the species; articles in peer-reviewed journals; conservation plans developed by States and counties; scientific status surveys and studies; biological assessments; other unpublished materials; or experts' opinions or personal knowledge.

Habitat is dynamic, and species may move from one area to another over time. We recognize that critical habitat designated at a particular point in time may not include all of the habitat areas that we may later determine are necessary for the recovery of the species. For these reasons, a critical habitat designation does not signal that habitat outside the designated area is unimportant or may not be needed for recovery of the species. Areas that are important to the conservation of the species, both inside and outside the critical habitat designation, will continue to be subject to: (1) Conservation actions implemented under section 7(a)(1) of the Act; (2) regulatory protections afforded by the requirement in section 7(a)(2) of the Act for Federal agencies to ensure their actions are not likely to jeopardize the continued existence of any endangered or threatened species; and (3) the prohibitions found in section 9 of the Act. Federally funded or permitted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. These protections and conservation tools will continue to contribute to recovery of this species. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans (HCPs), or other species conservation planning efforts if new information available at the time of these planning efforts calls for a different outcome.

#### **Prudency Determination**

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12), require that, to the maximum extent prudent and determinable, the Secretary shall designate critical habitat at the time the species is determined to be an endangered or threatened species. Our regulations (50 CFR 424.12(a)(1)) state that the Secretary may, but is not required to, determine that a designation would not be prudent in the following circumstances:

(i) The species is threatened by taking or other human activity and identification of critical habitat can be

expected to increase the degree of such threat to the species;

(ii) The present or threatened destruction, modification, or curtailment of a species' habitat or range is not a threat to the species, or threats to the species' habitat stem solely from causes that cannot be addressed through management actions resulting from consultations under section 7(a)(2) of the Act;

(iii) Areas within the jurisdiction of the United States provide no more than negligible conservation value, if any, for a species occurring primarily outside the jurisdiction of the United States;

(iv) No areas meet the definition of critical habitat; or

(v) The Secretary otherwise determines that designation of critical habitat would not be prudent based on the best scientific data available.

In the proposed listing rule (84 FR 67060; December 6, 2019), we determined that designation of critical habitat for Bartram's stonecrop would not be prudent. However, we invited public comment and requested information on the threats of taking or other human activity, on Bartram's stonecrop and its habitat, and the extent to which designation might increase those threats.

During the comment period, we did not receive any substantive comments, or any comments that would require us to change the not prudent determination or our rationale for it (see 84 FR 67060, December 6, 2019, p. 84 FR 67088). Therefore, we restate our conclusion that the designation of critical habitat is not prudent, in accordance with 50 CFR 424.12(a)(1), because Bartram's stonecrop faces a threat by collection, and designation can reasonably be expected to increase the degree of these threats to the species by making location information more readily available.

**Required Determinations**

*National Environmental Policy Act (42 U.S.C. 4321 et seq.)*

It is our position that, outside the jurisdiction of the U.S. Court of Appeals for the Tenth Circuit, we do not need to prepare environmental analyses pursuant to the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 et seq.) in connection with listing a species as an endangered or threatened species under the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This position was upheld by the U.S. Court of Appeals for the Ninth Circuit (*Douglas County v. Babbitt*, 48 F.3d 1495 (9th Cir. 1995), cert. denied 516 U.S. 1042 (1996)).

*Government-to-Government Relationship With Tribes*

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951), Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with Tribes in developing programs for healthy ecosystems, to acknowledge that Tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to Tribes.

We determined that no Tribal interests will be affected by this rule.

**References Cited**

A complete list of references cited in the SSA report and this rulemaking is available on the internet at <http://www.regulations.gov> under Docket No. FWS-R2-ES-2018-0104 and upon request from the Arizona Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

**Authors**

The primary authors of this final rule are the staff members of the U.S. Fish and Wildlife Service Species Assessment Team and the Arizona Ecological Services Field Office.

**List of Subjects in 50 CFR Part 17**

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

**Regulation Promulgation**

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

**PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS**

■ 1. The authority citation for part 17 continues to read as follows:

**Authority:** 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

■ 2. Amend § 17.12 in paragraph (h), the List of Endangered and Threatened Plants, by adding an entry for “*Graptopetalum bartramii*” in alphabetical order under FLOWERING PLANTS to read as follows:

**§ 17.12 Endangered and threatened plants.**

\* \* \* \* \*

(h) \* \* \*

Scientific name	Common name	Where listed	Status	Listing citations and applicable rules
FLOWERING PLANTS				
* <i>Graptopetalum bartramii</i>	* Bartram's stonecrop	* ..... Wherever found .....	* T	* 86 FR [INSERT <b>Federal Register</b> PAGE WHERE THE DOCUMENT BEGINS], 8/31/2021; 50 CFR 17.73(a). <sup>4d</sup>
* 	* 	* 	* 	* 

■ 3. Add § 17.73 to read as follows:

**§ 17.73 Special rules—flowering plants.**

(a) *Graptopetalum bartramii* (Bartram's stonecrop)—(1) *Prohibitions*.

The following prohibitions apply to *Graptopetalum bartramii*, except as provided under paragraph (a)(2) of this section:

(i) *Import or export*. It is unlawful to import or to export any *Graptopetalum bartramii*. Any shipment in transit through the United States is an importation and an exportation,

whether or not it has entered the country for customs purposes.

(ii) *Remove and reduce to possession.* It is unlawful to remove and reduce to possession the species from areas under Federal jurisdiction; maliciously damage or destroy the species on any such area; or remove, cut, dig up, or damage or destroy the species on any other area in knowing violation of any law or regulation of any State or in the course of any violation of a State criminal trespass law.

(iii) *Interstate or foreign commerce.* It is unlawful to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever, and in the course of a commercial activity, any *Graptopetalum bartramii*.

(iv) *Sale or offer for sale.* (A) It is unlawful to sell or to offer for sale in interstate or foreign commerce any *Graptopetalum bartramii*.

(B) An advertisement for the sale of any *Graptopetalum bartramii* which carries a warning to the effect that no sale may be consummated until a permit has been obtained from the Service, shall not be considered an offer for sale within the meaning of this paragraph.

(v) It is unlawful to attempt to commit, solicit another to commit, or cause to be committed, any of the acts described in this paragraph (a)(1).

(2) *Exceptions from prohibitions.* The following exceptions from prohibitions apply to *Graptopetalum bartramii*:

(i) A person may apply for a permit in accordance with 50 CFR 17.72 that authorizes an activity otherwise prohibited by this paragraph for *Graptopetalum bartramii*.

(ii)(A) Any employee or agent of the Service, any other Federal land management agency, or a State conservation agency, who is designated by that agency for such purposes, may, when acting in the course of official duties, remove and reduce to possession *Graptopetalum bartramii* from areas under Federal jurisdiction without a permit if such action is necessary to:

(1) Care for a damaged or diseased specimen;

(2) Dispose of a dead specimen; or

(3) Salvage a dead specimen which may be useful for scientific study.

(B) Any removal and reduction to possession pursuant to this paragraph must be reported in writing to the U.S. Fish and Wildlife Service within 5 days. The specimen may only be retained, disposed of, or salvaged in accordance with written directions from the Service.

(iii) Any qualified employee or agent of the Service or of a State conservation agency which is a party to a cooperative agreement with the Service in

accordance with section 6(c) of the Act, who is designated by that agency for such purposes, may, when acting in the course of official duties, remove, cut, dig up, damage, or destroy *Graptopetalum bartramii* on areas under Federal jurisdiction.

(b) [Reserved].

**Martha Williams,**

*Principal Deputy Director Exercising the Delegated Authority of the Director, U.S. Fish and Wildlife Service.*

[FR Doc. 2021-18476 Filed 8-30-21; 8:45 am]

**BILLING CODE 4333-15-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 20

[Docket No. FWS-HQ-MB-2020-0032; FF09M22000-212-FXMB1231099BPP0]

RIN 1018-BE34

#### Migratory Bird Hunting; 2021-2022 Seasons for Certain Migratory Game Birds

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** This rule prescribes the seasons, hours, areas, and daily bag and possession limits for hunting migratory birds. Taking of migratory birds is prohibited unless specifically provided for by annual regulations. This rule permits the taking of designated species during the 2021-22 season.

**DATES:** This rule takes effect on August 31, 2021.

**ADDRESSES:** You may inspect comments received on the migratory bird hunting regulations at <http://www.regulations.gov> at Docket No. FWS-HQ-MB-2020-0032. You may obtain copies of referenced reports from the Division of Migratory Bird Management's website at <http://www.fws.gov/migratorybirds/>, or at <http://www.regulations.gov> at Docket No. FWS-HQ-MB-2020-0032.

**FOR FURTHER INFORMATION CONTACT:** Jerome Ford, U.S. Fish and Wildlife Service, Department of the Interior, (202) 208-1050.

#### SUPPLEMENTARY INFORMATION:

##### Regulations Schedule for 2021

On October 9, 2020, we published in the **Federal Register** (85 FR 64097) a proposal to amend title 50 of the Code of Federal Regulations (CFR) at part 20. The proposal provided a background and overview of the migratory bird

hunting regulations process, and addressed the establishment of seasons, limits, and other regulations for hunting migratory game birds under §§ 20.101 through 20.107, 20.109, and 20.110 of subpart K. Major steps in the 2021-22 regulatory cycle relating to open public meetings and **Federal Register** notifications were illustrated in the diagram at the end of the October 9, 2020, proposed rule. For this regulatory cycle, we combined the elements described in that diagram as "Supplemental Proposals" with the one described as "Proposed Season Frameworks."

We provided the meeting dates and locations for the Service Regulations Committee (SRC) and Flyway Council meetings on Flyway calendars posted on our website at <https://www.fws.gov/birds/management/flyways.php>. On October 20-21, 2020, we held open meetings with the Flyway Council Consultants, at which the participants reviewed information on the current status of migratory game birds and developed recommendations for the 2021-22 regulations for these species. The October 9, 2020, proposed rule provided detailed information on the proposed 2021-22 regulatory schedule and announced the SRC meetings.

On February 22, 2021, we published in the **Federal Register** (86 FR 10622) the proposed frameworks for the 2021-22 season migratory bird hunting regulations. On July 16, 2021, we published in the **Federal Register** (86 FR 37854) the final frameworks for migratory game bird hunting regulations, from which State wildlife conservation agency officials selected seasons, hours, areas, and limits for hunting migratory birds during the 2021-22 season.

The final rule described here is the final in the series of proposed, supplemental, and final rulemaking documents for migratory game bird hunting regulations for the 2021-22 season, and deals specifically with amending subpart K of 50 CFR part 20. It sets hunting seasons, hours, areas, and limits for migratory game bird species. This final rule is the culmination of the annual rulemaking process allowing migratory game bird hunting, which started with the October 9, 2020, proposed rule. As discussed elsewhere in this document, we supplemented that proposal on February 22, 2021, and published final season frameworks on July 16, 2021, that provided the season selection criteria from which the States selected these seasons. This final rule sets the migratory game bird hunting seasons based on that input from the States. We previously addressed all

comments in the July 16 **Federal Register** (86 FR 37854).

### Required Determinations

#### *National Environmental Policy Act (NEPA) Consideration*

The programmatic document, “Second Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (EIS 20130139),” filed with the Environmental Protection Agency (EPA) on May 24, 2013, addresses NEPA (42 U.S.C. 4321 *et seq.*) compliance by the Service for issuance of the annual framework regulations for hunting of migratory game bird species. We published a notice of availability in the **Federal Register** on May 31, 2013 (78 FR 32686), and our Record of Decision on July 26, 2013 (78 FR 45376). We also address NEPA compliance for waterfowl hunting frameworks through the annual preparation of separate environmental assessments, the most recent being “Duck Hunting Regulations for 2021–22,” with its corresponding March 2021, finding of no significant impact. The programmatic document, as well as the separate environmental assessment, is available on our website at <https://www.fws.gov/birds/index.php>.

#### *Endangered Species Act Consideration*

Section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), provides that the Secretary shall insure that any action authorized, funded, or carried out is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of critical habitat. Consequently, we conducted formal consultations to ensure that actions resulting from these regulations would not likely jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitat. Findings from these consultations are included in a biological opinion, which concluded that the regulations are not likely to jeopardize the continued existence of any endangered or threatened species. Additionally, these findings may have caused modification of some regulatory measures previously proposed, and the final frameworks (86 FR 37854; July 16, 2021) reflect any such modifications. The biological opinion is available from <http://www.regulations.gov> at Docket No. FWS–HQ–MB–2020–0032.

#### *Regulatory Planning and Review (Executive Orders 12866 and 13563)*

E.O. 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. OIRA has reviewed this rule and has determined that this rule is significant because it will have an annual effect of \$100 million or more on the economy.

E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation’s regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The Executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

An economic analysis was prepared for the 2021–22 season. This analysis was based on data from the 2016 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation (National Survey), the most recent year for which data are available (see discussion under *Regulatory Flexibility Act*, below). This analysis estimated consumer surplus for three alternatives for duck hunting (estimates for other species are not quantified due to lack of data). The alternatives are (1) issue restrictive regulations allowing fewer days than those issued during the 2019–20 season, (2) issue moderate regulations allowing more days than those in alternative 1, and (3) issue liberal regulations similar to the regulations in the 2020–21 season. For the 2020–21 season, we chose Alternative 3, with an estimated consumer surplus across all flyways of \$270–\$358 million with a mid-point estimate of \$314 million. We also chose alternative 3 for the 2009–10 through 2020–21 seasons. The 2021–22 analysis is part of the record for this rule and is available at <http://www.regulations.gov> at Docket No. FWS–HQ–MB–2020–0032.

#### *Regulatory Flexibility Act*

The annual migratory bird hunting regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). We analyzed

the economic impacts of the annual hunting regulations on small business entities. This analysis is updated annually. The primary source of information about hunter expenditures for migratory game bird hunting is the National Survey, which is generally conducted at 5-year intervals. The 2021 analysis is based on the 2016 National Survey and the U.S. Department of Commerce’s County Business Patterns, from which it is estimated that migratory bird hunters will spend approximately \$2.2 billion at small businesses in 2021. The analysis is available from <http://www.regulations.gov> at Docket No. FWS–HQ–MB–2020–0032.

#### *Small Business Regulatory Enforcement Fairness Act*

This final rule is a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. For the reasons outlined above, this rule will have an annual effect on the economy of \$100 million or more. However, because this rule establishes regulations for hunting seasons, we do not plan to defer the effective date under the exemption contained in 5 U.S.C. 808(1).

#### *Paperwork Reduction Act*

This rule does not contain any new collection of information that requires approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has previously approved the information collection requirements associated with migratory bird surveys and the procedures for establishing annual migratory bird hunting seasons under the following OMB control numbers:

- 1018–0019, “North American Woodcock Singing Ground Survey” (expires 02/29/2024).
- 1018–0023, “Migratory Bird Surveys, 50 CFR 20.20” (expires 04/30/2023). Includes Migratory Bird Harvest Information Program, Migratory Bird Hunter Surveys, Sandhill Crane Survey, and Parts Collection Survey.
- 1018–0171, “Establishment of Annual Migratory Bird Hunting Seasons, 50 CFR part 20” (expires 02/29/2024).

#### *Unfunded Mandates Reform Act*

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking

will not impose a cost of \$100 million or more in any given year on local or State government or private entities. Therefore, this rule is not a “significant regulatory action” under the Unfunded Mandates Reform Act.

#### *Civil Justice Reform—Executive Order 12988*

The Department, in promulgating this rule, has determined that this rule will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of E.O. 12988.

#### *Takings Implication Assessment*

In accordance with E.O. 12630, this rule, authorized by the Migratory Bird Treaty Act, does not have significant takings implications and does not affect any constitutionally protected property rights. This rule will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, this rule will allow hunters to exercise otherwise unavailable privileges and, therefore, reduce restrictions on the use of private and public property.

#### *Energy Effects—Executive Order 13211*

E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. While this rule is a significant regulatory action under E.O. 12866, it is not expected to adversely affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

#### *Government-to-Government Relationship With Tribes*

In accordance with the President’s memorandum of April 29, 1994, “Government-to-Government Relations with Native American Tribal Governments” (59 FR 22951), E.O. 13175, and 512 DM 2, we have evaluated possible effects on federally recognized Indian Tribes and have determined that there are no effects on Indian trust resources. We solicited proposals for special migratory bird hunting regulations for certain Tribes on Federal Indian reservations, off-reservation trust lands, and ceded lands for the 2021–22 migratory bird hunting season in the October 9, 2020, proposed rule (85 FR 64097). The resulting proposals were contained in a separate proposed rule published on May 4, 2021 (86 FR 23641). By virtue of these actions, we have consulted with Tribes affected by this rule.

#### *Federalism Effects*

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. We annually prescribe frameworks from which the States make selections regarding the hunting of migratory birds, and we employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and Tribes to determine which seasons meet their individual needs. Any State or Tribe may be more restrictive than the Federal frameworks at any time. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This process allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulations. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with E.O. 13132, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

#### **Review of Public Comments**

The October 9, 2020, proposed rulemaking (85 FR 64097) opened the public comment period for 2021–22 migratory game bird hunting regulations. We previously addressed all comments in a July 16, 2021, **Federal Register** publication (86 FR 37854).

#### **Regulations Promulgation**

The rulemaking process for migratory game bird hunting, by its nature, operates under a time constraint as seasons must be established each year or hunting seasons remain closed. However, we intend that the public be provided extensive opportunity for public input and involvement in compliance with Administrative Procedure Act (5 U.S.C. subchapter II) requirements. Thus, when the preliminary proposed rulemaking was published, we established what we concluded were the longest periods possible for public comment and the most opportunities for public involvement. We also provided notification of our participation in multiple Flyway Council meetings, opportunities for additional public review and comment on all Flyway

Council proposals for regulatory change, and opportunities for additional public review during the SRC meeting. Therefore, we conclude that sufficient public notice and opportunity for involvement have been given to affected persons.

Further, States need sufficient time to communicate these season selections to their affected publics, and to establish and publicize the necessary regulations and procedures to implement these seasons. Thus, we find that “good cause” exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and therefore, under authority of the Migratory Bird Treaty Act (July 3, 1918), as amended (16 U.S.C. 703–711), these regulations will take effect less than 30 days after publication. Accordingly, with each conservation agency having had an opportunity to participate in selecting the hunting seasons desired for its State or Territory on those species of migratory birds for which open seasons are now prescribed, and consideration having been given to all other relevant matters presented, certain sections of title 50, chapter I, subchapter B, part 20, subpart K, are hereby amended as set forth below.

#### **List of Subjects in 50 CFR Part 20**

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

#### **Signing Authority**

The Assistant Secretary for Fish and Wildlife and Parks approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of the Interior. Shannon Estenoz, Assistant Secretary for Fish and Wildlife and Parks, approved this document on August 10, 2021, for publication.

#### **Maureen D. Foster,**

*Chief of Staff, Office of the Assistant Secretary for Fish and Wildlife and Parks.*

For the reasons set out in the preamble, title 50, chapter I, subchapter B, part 20, subpart K of the Code of Federal Regulations is amended as follows:

#### **PART 20—MIGRATORY BIRD HUNTING**

■ 1. The authority citation for part 20 continues to read as follows:

**Authority:** 16 U.S.C. 703 et seq., and 16 U.S.C. 742a–j.

**Note:** The following annual hunting regulations provided for by §§ 20.101 through

20.107 and 20.109 of 50 CFR part 20 will not appear in the Code of Federal Regulations because of their seasonal nature.

■ 2. Section 20.101 is revised to read as follows:

**§ 20.101 Seasons, limits, and shooting hours for Puerto Rico and the Virgin Islands.**

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open

seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset.

CHECK COMMONWEALTH REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS.

(a) *Puerto Rico.*

*Restrictions:* In Puerto Rico, the season is closed on the ruddy duck, white-cheeked pintail, West Indian whistling duck, fulvous whistling duck, masked duck, purple gallinule, American coot, Caribbean coot, white-crowned pigeon, and plain pigeon.

*Closed Areas:* Closed areas are described in the July 16, 2021, **Federal Register** (86 FR 37854).

Species	Season dates	Limits	
		Bag	Possession
Doves and Pigeons:			
Zenaida, white-winged, and mourning doves (1) ..	Sept. 4–Nov. 1 .....	30	90
Scaly-naped pigeons .....	Sept. 4–Nov. 1 .....	5	15
Ducks .....	Nov. 13–Dec. 20 & .....	6	18
	Jan. 15–Jan. 31 .....	6	18
Common Gallinules .....	Nov. 13–Dec. 20 & .....	6	18
	Jan. 15–Jan. 31 .....	6	18
Wilson’s Snipe .....	Nov. 13–Dec. 20 & .....	8	16
	Jan. 15–Jan. 30 .....	8	16

(1) The daily bag limit for Zenaida, white-winged, and mourning doves is in the aggregate and may include not more than 10 Zenaida and 3 mourning doves. The possession limit is three times the daily bag limit.

(b) *Virgin Islands.*

*Restrictions:* In the Virgin Islands, the seasons are closed for ground or quail doves, pigeons, ruddy duck, white-cheeked pintail, West Indian whistling

duck, fulvous whistling duck, masked duck, and all other ducks, and purple gallinule.

*Closed Areas:* Ruth Cay, just south of St. Croix, is closed to the hunting of

migratory game birds. All Offshore Cays under jurisdiction of the Virgin Islands Government are closed to the hunting of migratory game birds.

Species	Season dates	Limits	
		Bag	Possession
Zenaida doves .....	Sept. 1–Sept. 30 .....	10	10
Ducks .....	Closed .....		

■ 3. Section 20.102 is revised to read as follows:

**§ 20.102 Seasons, limits, and shooting hours for Alaska.**

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset.

Area descriptions were published in the July 16, 2021, **Federal Register** (86 FR 37854).

*Note:* Light geese include lesser snow (including blue) geese, greater snow geese, and Ross’s geese.

*Falconry:* The total combined bag and possession limit for migratory game birds taken with the use of a raptor under a falconry permit is 3 per day, 9 in possession, and may not exceed a more restrictive limit for any species listed in this subsection.

*Special Tundra Swan Season:* In Units 17, 18, 22, and 23, there will be

a tundra swan season from September 1 through October 31 with a season limit of 3 tundra swans per hunter. This season is by State permit only; hunters will be issued 1 permit allowing the take of up to 3 tundra swans. Hunters will be required to file a harvest report with the State after the season is completed. Up to 500 permits may be issued in Unit 18; 300 permits each in Units 22 and 23; and 200 permits in Unit 17.

CHECK STATE REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS.

Area	Season dates
North Zone .....	Sept. 1–Dec. 16.
Gulf Coast Zone .....	Sept. 1–Dec. 16.
Southeast Zone .....	Sept. 1–Dec. 16.
Pribilof and Aleutian Islands Zone .....	Oct. 8–Jan. 22.
Kodiak Zone .....	Oct. 8–Jan. 22.



Area	Daily bag and possession limits							
	Ducks (1)	Canada & cackling geese (2)(3)(4)	White-fronted geese (5)(6)	Light geese	Brant	Emperor geese (7)(8)	Snipe	Sandhill cranes (9)
North Zone .....	10-30	4-12	4-12	6-18	2-6	1-1	8-24	3-9
Gulf Coast Zone .....	8-24	4-12	4-12	6-18	2-6	1-1	8-24	2-6
Southeast Zone .....	7-21	4-12	4-12	6-18	2-6	1-1	8-24	2-6
Pribilof and Aleutian Islands Zone .....	7-21	4-12	4-12	6-18	2-6	1-1	8-24	2-6
Kodiak Zone .....	7-21	4-12	4-12	6-18	2-6	1-1	8-24	2-6

(1) The basic duck bag limits may include no more than 2 canvasbacks daily, and may not include sea ducks. In addition to the basic duck limits, the sea duck limit is 10 daily, including no more than 6 each of either harlequin or long-tailed ducks. Sea ducks include scoters, common and king eiders, harlequin ducks, long-tailed ducks, and common, hooded, and red-breasted mergansers. The season for Steller's and spectacled eiders is closed.

(2) Daily bag and possession limits are in the aggregate for the two species.

(3) In Units 5 and 6, the taking of Canada and cackling geese is only permitted from September 28 through December 16. In the Middleton Island portion of Unit 6, the taking of Canada and cackling geese is by special permit only. The maximum number of Canada and cackling geese permits is 10 for the season. A mandatory goose-identification class is required. Hunters must check in and out. The daily bag and possession limits are 1 Canada or cackling goose. The season will close if harvest includes 5 dusky Canada geese. A dusky Canada goose is any dark-breasted Canada goose (Munsell 10 YR color value five or less) with a bill length between 40 and 50 millimeters.

(4) In Units 9, 10, 17, and 18, for Canada and cackling geese, the daily bag limit is 6 and the possession limit is 18 are in the aggregate.

(5) In Units 9, 10, and 17, for white-fronted geese, the daily bag limit is 6 and the possession limit is 18.

(6) In Unit 18, for white-fronted geese, the daily bag limit is 10 and the possession limit is 30.

(7) In Unit 8, the Kodiak Island Roaded Area is closed to emperor goose hunting. The Kodiak Island Roaded Area consists of all lands and water (including exposed tidelands) east of a line extending from Crag Point in the north to the west end of Saltery Cove in the south and all lands and water south of a line extending from Termination Point along the north side of Cascade Lake extending to Anton Larsen Bay. Marine waters adjacent to the closed area are closed to harvest within 500 feet from the water's edge. The offshore islands are open to harvest, for example: Woody, Long, Gull and Puffin Islands.

(8) Emperor goose hunting is by State permit only; no more than 1 emperor goose may be harvested per hunter per season. Hunters will be required to file a harvest report with the State after harvesting an emperor goose. Total emperor goose harvest may not exceed 500 birds. See State regulations for specific dates, times, and conditions of permit hunts and closures.

(9) In Unit 17 of the North Zone, for sandhill cranes, the daily bag limit is 2 and the possession limit is 6.

■ 4. Section 20.103 is revised to read as follows:

**§ 20.103 Seasons, limits, and shooting hours for doves and pigeons.**

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and

possession limits for the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset except as otherwise noted. Area descriptions were published in the July 16, 2021, **Federal Register** (86 FR 37854).

CHECK STATE REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS.

(a) *Doves*.

**Note:** Unless otherwise specified, the seasons listed below are for mourning and white-winged doves. The daily bag and possession limits are in the aggregate for the two species.

Area	Season dates	Limits	
		Bag	Poss.
<b>EASTERN MANAGEMENT UNIT</b>			
<i>Alabama:</i>			
North Zone:			
12 noon to sunset .....	Sept. 4 only .....	15	15
½ hour before sunrise to sunset .....	Sept. 5–Oct. 24 & .....	15	45
	Nov. 20–Nov. 28 & .....	15	45
	Dec. 18–Jan. 16 .....	15	45
South Zone:			
12 noon to sunset .....	Sept. 11 only .....	15	15
½ hour before sunrise to sunset .....	Sept. 12–Oct. 31 & .....	15	45
	Nov. 20–Nov. 28 & .....	15	45
	Dec. 18–Jan. 16 .....	15	45
<i>Delaware</i> .....	Sept. 1–Oct. 4 & .....	15	45
	Nov. 22–Jan. 31 .....	15	45
<i>Florida:</i>			
	Sept. 25–Oct. 17 .....	15	45
	Nov. 13–Dec. 5 & .....	15	45
	Dec. 19–Jan. 31 .....	15	45
<i>Georgia:</i>			
	Sept. 4–Oct. 10 & .....	15	45
	Nov. 20–Nov. 28 & .....	15	45
	Dec. 19–Jan. 31 .....	15	45
<i>Illinois</i> (1) .....	Sept. 1–Nov. 14 & .....	15	45
	Dec. 26–Jan. 9 .....	15	45
<i>Indiana</i> .....	Sept. 1–Oct. 17 & .....	15	45

Area	Season dates	Limits	
		Bag	Poss.
	Nov. 1–Nov. 21 & .....	15	45
	Dec. 11–Jan. 1 .....	15	45
<i>Kentucky:</i>			
11 a.m. to sunset .....	Sept. 1 only .....	15	15
½ hour before sunrise to sunset .....	Sept. 2–Oct. 26 & .....	15	45
	Nov. 25–Dec. 5 & .....	15	45
	Dec. 18–Jan. 9 .....	15	45
<i>Louisiana:</i>			
North Zone:			
½ hour before sunrise to sunset .....	Sept. 4–Sept. 26 & .....	15	45
	Oct. 9–Nov. 14 & .....	15	45
	Dec. 24–Jan. 22 .....	15	45
South Zone:			
½ hour before sunrise to sunset .....	Sept. 4–Sept. 18 & .....	15	45
	Oct. 16–Nov. 28 & .....	15	45
	Dec. 18–Jan. 17 .....	15	45
<i>Maryland:</i>			
12 noon to sunset .....	Sept. 1–Oct. 16 .....	15	45
½ hour before sunrise to sunset .....	Oct. 23–Nov. 26 & .....	15	45
	Dec. 17–Jan. 8 .....	15	45
<i>Mississippi:</i>			
North Zone .....	Sept. 4–Oct. 17 & .....	15	45
	Oct. 30–Nov. 28 & .....	15	45
	Dec. 25–Jan. 9 .....	15	45
South Zone .....	Sept. 4–Sept. 19 & .....	15	45
	Oct. 9–Nov. 7 & .....	15	45
	Dec. 19–Jan. 31 .....	15	45
<i>North Carolina</i> .....	Sept. 6–Oct. 2 & .....	15	45
	Nov. 6–Nov. 27 & .....	15	45
	Dec. 9–Jan. 31 .....	15	45
<i>Ohio</i> .....	Sept. 1–Nov. 7 & .....	15	45
	Dec. 11–Jan. 1 .....	15	45
<i>Pennsylvania:</i>			
½ hour before sunrise to sunset .....	Sept. 1–Nov. 26 .....	15	45
	Dec. 16–Jan. 1 .....	15	45
<i>Rhode Island:</i>			
12 noon to sunset .....	Sept. 11–Oct. 10 .....	15	45
½ hour before sunrise to sunset .....	Oct. 16–Nov. 28 & .....	15	45
	Dec. 11–Dec. 26 .....	15	45
<i>South Carolina:</i>			
12 noon to sunset .....	Sept. 4–Sept. 6 .....	15	45
½ hour before sunrise to sunset .....	Sept. 7–Oct. 2 & .....	15	45
	Nov. 13–Nov. 27 & .....	15	45
	Dec. 17–Jan. 31 .....	15	45
<i>Tennessee:</i>			
12 noon to sunset .....	Sept. 1 only .....	15	15
½ hour before sunrise to sunset .....	Sept. 2–Sept. 28 & .....	15	45
	Oct. 9–Oct. 31 & .....	15	45
	Dec. 8–Jan. 15 .....	15	45
<i>Virginia:</i>			
12 noon to sunset .....	Sept. 4 only .....	15	15
½ hour before sunrise to sunset .....	Sept. 5–Oct. 27 & .....	15	45
	Nov. 20–Nov. 28 & .....	15	45
	Dec. 22–Jan. 17 .....	15	45
<i>West Virginia:</i>			
12 noon to sunset .....	Sept. 1 only .....	15	15
½ hour before sunrise to sunset .....	Sept. 2–Oct. 10 & .....	15	45
	Nov. 1–Nov. 14 & .....	15	45
	Dec. 20–Jan. 24 .....	15	45
<i>Wisconsin</i> .....	Sept. 1–Nov. 29 .....	15	45

CENTRAL MANAGEMENT UNIT

<i>Arkansas</i> .....	Sept. 4–Oct. 24 & .....	15	45
	Dec. 8–Jan. 15 .....	15	45
<i>Colorado</i> .....	Sept. 1–Nov. 29 .....	15	45
<i>Iowa</i> .....	Sept. 1–Nov. 29 .....	15	45
<i>Kansas</i> .....	Sept. 1–Nov. 29 .....	15	45
<i>Minnesota</i> .....	Sept. 1–Nov. 29 .....	15	45
<i>Missouri</i> .....	Sept. 1–Nov. 29 .....	15	45
<i>Montana</i> .....	Sept. 1–Oct. 30 .....	15	45
<i>Nebraska</i> .....	Sept. 1–Oct. 30 .....	15	45

Area	Season dates	Limits	
		Bag	Poss.
<i>New Mexico:</i>			
North Zone .....	Sept. 1–Nov. 29 .....	15	45
South Zone .....	Sept. 1–Oct. 28 & .....	15	45
	Dec. 1–Jan. 1 .....	15	45
<i>North Dakota</i> .....	Sept. 1–Nov. 29 .....	15	45
<i>Oklahoma</i> .....	Sept. 1–Oct. 31 & .....	15	45
	Dec. 1–Dec. 29 .....	15	45
<i>South Dakota</i> .....	Sept. 1–Nov. 9 .....	15	45
<i>Texas (2):</i>			
North Zone .....	Sept. 1–Nov. 12 & .....	15	45
	Dec. 17–Jan. 2 .....	15	45
Central Zone .....	Sept. 1–Oct. 31 & .....	15	45
	Dec. 17–Jan. 14 .....	15	45
South Zone .....	Sept. 14–Oct. 31 & .....	15	45
	Dec. 17–Jan. 21 .....	15	45
(Special Season) .....	Sept. 3–Sept. 5 & .....	15	45
12 noon to sunset .....	Sept. 10–Sept. 12 .....	15	45
<i>Wyoming</i> .....	Sept. 1–Nov. 29 .....	15	45
<b>WESTERN MANAGEMENT UNIT</b>			
<i>Arizona (3)</i> .....	Sept. 1–Sept. 15 & .....	15	45
	Nov. 19–Jan. 2 .....	15	45
<i>California (4)</i> .....	Sept. 1–Sept. 15 & .....	15	45
	Nov. 13–Dec. 27 .....	15	45
<i>Idaho</i> .....	Sept. 1–Oct. 30 .....	15	45
<i>Nevada</i> .....	Sept. 1–Oct. 30 .....	15	45
<i>Oregon:</i>			
Zone 1 .....	Sept. 1–Sept. 30 & .....	15	45
	Nov. 15–Dec. 14 .....	15	45
Zone 2 .....	Sept. 1–Oct. 30 .....	15	45
<i>Utah</i> .....	Sept. 1–Oct. 30 .....	15	45
<i>Washington</i> .....	Sept. 1–Oct. 30 .....	15	45
<b>OTHER POPULATIONS</b>			
<i>Hawaii (5)</i> .....	Nov. 6–Jan. 16 .....	10	30

(1) In *Illinois*, shooting hours are sunrise to sunset.

(2) In *Texas*, the daily bag limit is 15 mourning, white-winged, and white-tipped doves in the aggregate, of which no more than 2 may be white-tipped doves with a maximum 90-day season. Possession limits are three times the daily bag limit. During the special season in the Special White-winged Dove Area of the South Zone, the daily bag limit is 15 mourning, white-winged, and white-tipped doves in the aggregate, of which no more than 2 may be mourning doves and 2 may be white-tipped doves. Possession limits are three times the daily bag limit.

(3) In *Arizona*, during September 1 through 15, the daily bag limit is 15 mourning and white-winged doves in the aggregate, of which no more than 10 may be white-winged doves. During November 19 through January 2, the daily bag limit is 15 mourning doves.

(4) In *California*, the daily bag limit is 15 mourning and white-winged doves in the aggregate, of which no more than 10 may be white-wing doves.

(5) In *Hawaii*, the season is only open on the islands of Hawaii and Maui. On the island of Hawaii, the daily bag limit is 10 mourning doves, spotted doves, and chestnut-bellied sandgrouse in the aggregate. On the island of Maui, the daily bag limit is 10 mourning doves. Shooting hours are from one-half hour before sunrise through one-half hour after sunset. See State regulations for additional restrictions on hunting dates and areas.

(b) *Band-tailed Pigeons.*

Area	Season dates	Limits	
		Bag	Possession
<i>Arizona</i> .....	Oct. 1–Oct. 14 .....	2	6
<i>California:</i>			
North Zone .....	Sept. 18–Sept. 26 .....	2	6
South Zone .....	Dec. 18–Dec. 26 .....	2	6
<i>Colorado (1)</i> .....	Sept. 1–Sept. 14 .....	2	6
<i>New Mexico (1):</i>			
North Zone .....	Sept. 1–Sept. 14 .....	2	6
South Zone .....	Oct. 1–Oct. 14 .....	2	6
<i>Oregon</i> .....	Sept. 15–Sept. 23 .....	2	6
<i>Utah (1)</i> .....	Sept. 1–Sept. 14 .....	2	6
<i>Washington</i> .....	Sept. 15–Sept. 23 .....	2	6

(1) Each band-tailed pigeon hunter must have a band-tailed pigeon hunting permit issued by the State.

■ 5. Section 20.104 is revised to read as follows:

**§ 20.104 Seasons, limits, and shooting hours for rails, woodcock, and snipe.**

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and

possession limits for the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset except as otherwise noted. Area descriptions were published in the July 16, 2021, **Federal Register** (86 FR 37854).

**Note:** Unless otherwise specified, the daily bag and possession limits for sora and Virginia rails are in the aggregate, and the daily bag and possession limits for clapper and king rails are in the aggregate.

CHECK STATE REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS.

Area	Sora and Virginia rails	Clapper and king rails	American woodcock	Snipe
Daily bag limit	25	15	3	8
Possession limit	75	45	9	24

**ATLANTIC FLYWAY**

<i>Connecticut</i> (1)	Sept. 1–Oct. 9 & Oct. 18–Nov. 27	Sept. 1–Oct. 9 & Oct. 18–Nov. 27	Oct. 21–Nov. 13 & Nov. 15–Dec. 11	Sept. 1–Oct. 9 & Oct. 18–Nov. 27
<i>Delaware</i> (2)	Sept. 4–Nov. 24	Sept. 4–Nov. 24	Nov. 22–Nov. 27 & Dec. 3–Jan. 17	Sept. 10–Nov. 27 & Dec. 3–Jan. 17
<i>Florida</i>	Sept. 1–Nov. 9	Sept. 1–Nov. 9	Dec. 18–Jan. 31	Nov. 1–Feb. 15
<i>Georgia</i>	Oct. 5–Oct. 24 & Nov. 1–Dec. 20	Oct. 5–Oct. 24 & Nov. 1–Dec. 20	Dec. 11–Jan. 24	Nov. 15–Feb. 28
<i>Maine</i> (3)	Sept. 1–Nov. 20	Closed	Sept. 25–Nov. 16	Sept. 1–Jan. 3
<i>Maryland</i> (1)	Sept. 1–Nov. 20	Sept. 1–Nov. 20	Oct. 20–Nov. 26 & Jan. 10–Jan. 22	Sept. 29–Jan. 31
<i>Massachusetts</i> (4)	Sept. 1–Nov. 6	Closed	Oct. 1–Nov. 22	Sept. 1–Dec. 16
<i>New Hampshire</i>	Closed	Closed	Oct. 1–Nov. 14	Sept. 15–Nov. 14
<i>New Jersey</i> (2)(5): North Zone	Sept. 1–Nov. 20	Sept. 1–Nov. 20	Oct. 16–Oct. 30 & Nov. 2–Nov. 27	Sept. 11–Jan. 13
South Zone	Sept. 1–Nov. 20	Sept. 1–Nov. 20	Nov. 6–Nov. 30 & Dec. 16–Jan. 1	Sept. 12–Jan. 13
<i>New York</i> (6)	Sept. 1–Nov. 9	Closed	Oct. 1–Nov. 14	Sept. 1–Nov. 9
<i>North Carolina</i>	Sept. 4–Sept. 14 & Oct. 2–Dec. 11	Sept. 4–Sept. 14 & Oct. 2–Dec. 11	Dec. 10–Jan. 31	Oct. 27–Feb. 28
<i>Pennsylvania</i> (7)	Sept. 1–Nov. 20	Closed	Oct. 16–Nov. 26 & Dec. 13–Dec. 22	Oct. 16–Nov. 26 & Dec. 13–Dec. 22
<i>Rhode Island</i> (8)	Sept. 1–Nov. 9	Sept. 1–Nov. 9	Oct. 16–Nov. 29	Sept. 1–Nov. 9
<i>South Carolina</i>	Sept. 8–Sept. 12 & Oct. 4–Dec. 7	Sept. 8–Sept. 12 & Oct. 4–Dec. 7	Dec. 18–Jan. 31	Nov. 14–Feb. 28
<i>Vermont</i>	Closed	Closed	Sept. 25–Nov. 8	Sept. 25–Nov. 8
<i>Virginia</i>	Sept. 7–Nov. 15	Sept. 7–Nov. 15	Nov. 11–Dec. 8 & Dec. 27–Jan. 12	Oct. 8–Oct. 11 & Oct. 21–Jan. 31
<i>West Virginia</i> (13)	Sept. 1–Nov. 9	Closed	Oct. 16–Nov. 20 & Nov. 29–Dec. 7	Sept. 1–Dec. 16

**MISSISSIPPI FLYWAY**

<i>Alabama</i> (9)	Sept. 11–Sept. 26 & Nov. 26–Jan. 18	Sept. 11–Sept. 26 & Nov. 26–Jan. 18	Dec. 17–Jan. 30	Nov. 13–Feb. 27
<i>Arkansas</i>	Sept. 11–Nov. 19	Closed	Nov. 6–Dec. 20	Nov. 1–Feb. 15
<i>Illinois</i> (10)	Sept. 11–Nov. 19	Closed	Oct. 16–Nov. 29	Sept. 11–Dec. 26
<i>Indiana</i> (11)	Sept. 1–Nov. 9	Closed	Oct. 15–Nov. 28	Sept. 1–Dec. 16
<i>Iowa</i> (12)	Sept. 4–Nov. 12	Closed	Oct. 2–Nov. 15	Sept. 4–Nov. 30
<i>Kentucky</i>	Sept. 1–Nov. 9	Closed	Oct. 23–Nov. 12 & Nov. 15–Dec. 8	Sept. 15–Oct. 24 & Nov. 25–Jan. 30
<i>Louisiana</i>	Sept. 11–Sept. 26 & Nov. 13–Jan. 5	Sept. 11–Sept. 26 & Nov. 13–Jan. 5	Dec. 18–Jan. 31	Nov. 2–Dec. 5 & Dec. 18–Feb. 28
<i>Michigan</i>	Sept. 1–Nov. 9	Closed	Sept. 15–Oct. 29	Sept. 1–Nov. 9
<i>Minnesota</i>	Sept. 1–Nov. 8	Closed	Sept. 25–Nov. 8	Sept. 1–Nov. 8
<i>Mississippi</i>	Sept. 1–Oct. 3 & Nov. 26–Jan. 1	Sept. 1–Oct. 3 & Nov. 26–Jan. 1	Dec. 18–Jan. 31	Nov. 14–Feb. 28
<i>Missouri</i>	Sept. 1–Nov. 9	Closed	Oct. 15–Nov. 28	Sept. 1–Dec. 16
<i>Ohio</i>	Sept. 1–Nov. 9	Closed	Oct. 9–Nov. 22	Sept. 1–Nov. 24 & Dec. 11–Jan. 1
<i>Tennessee</i>	Sept. 1–Nov. 9	Closed	Nov. 13–Dec. 5 & Jan. 10–Jan. 31	Nov. 14–Feb. 28
<i>Wisconsin</i>	Sept. 1–Nov. 9	Closed	Sept. 25–Nov. 8	Sept. 1–Nov. 9

**CENTRAL FLYWAY**

<i>Colorado</i>	Sept. 1–Nov. 9	Closed	Closed	Sept. 1–Dec. 16
<i>Kansas</i>	Sept. 1–Nov. 9	Closed	Oct. 16–Nov. 29	Sept. 1–Dec. 16

Area	Sora and Virginia rails	Clapper and king rails	American woodcock	Snipe
Daily bag limit	25	15	3	8
Possession limit	75	45	9	24
Montana	Closed	Closed	Closed	Sept. 1–Dec. 16.
Nebraska (13)	Sept. 1–Nov. 9	Closed	Oct. 2–Nov. 15	Sept. 1–Dec. 16.
New Mexico (14)	Sept. 11–Nov. 19	Closed	Closed	Oct. 9–Jan. 23.
North Dakota	Closed	Closed	Sept. 25–Nov. 8	Sept. 11–Dec. 5.
Oklahoma	Sept. 1–Nov. 9	Closed	Oct. 31–Dec. 14	Oct. 2–Jan. 16.
South Dakota (15)	Closed	Closed	Closed	Sept. 1–Oct. 31.
Texas	Sept. 11–Sept. 26 & Nov. 6–Dec. 29.	Sept. 11–Sept. 26 & Nov. 6–Dec. 29.	Dec. 18–Jan. 31	Nov. 6–Feb. 20.
Wyoming	Sept. 1–Nov. 9	Closed	Closed	Sept. 1–Dec. 16.

PACIFIC FLYWAY

Arizona (16):				
North Zone	Closed	Closed	Closed	Oct. 1–Jan. 9.
South Zone	Closed	Closed	Closed	Oct. 23–Jan. 31.
California	Closed	Closed	Closed	Oct. 23–Feb. 6.
Colorado	Sept. 1–Nov. 9	Closed	Closed	Sept. 1–Dec. 16.
Idaho:				
Zone 1	Closed	Closed	Closed	Oct. 2–Jan. 14.
Zone 2	Closed	Closed	Closed	Oct. 2–Jan. 14.
Zone 3	Closed	Closed	Closed	Oct. 16–Jan. 28.
Zone 4	Closed	Closed	Closed	Oct. 2–Jan. 14.
Montana	Closed	Closed	Closed	Sept. 1–Dec. 16.
Nevada:				
Northeast Zone	Closed	Closed	Closed	Sept. 25–Oct. 13 & Oct. 23–Jan. 16.
Northwest Zone	Closed	Closed	Closed	Oct. 16–Jan. 2 & Jan. 5–Jan. 30.
South Zone (17)	Closed	Closed	Closed	Oct. 16–Oct. 24 & Oct. 27–Jan. 30.
New Mexico	Sept. 11–Nov. 19	Closed	Closed	Oct. 17–Jan. 31.
Oregon:				
Zone 1	Closed	Closed	Closed	Nov. 6–Feb. 20.
Zone 2	Closed	Closed	Closed	Oct. 9–Jan. 23.
Utah:				
Zone 1	Closed	Closed	Closed	Oct. 2–Jan. 15.
Zone 2	Closed	Closed	Closed	Oct. 16–Jan. 29.
Washington:				
East Zone	Closed	Closed	Closed	Oct. 16–Oct. 24 & Oct. 27–Jan. 30.
West Zone	Closed	Closed	Closed	Oct. 16–Oct. 24 & Oct. 27–Jan. 30.
Wyoming	Sept. 1–Nov. 9	Closed	Closed	Sept. 1–Dec. 16.

(1) In *Connecticut* and *Maryland*, the daily bag limit for clapper and king rails is 10 and may include no more than 1 king rail. The possession limit is three times the daily bag limit.

(2) In *Delaware* and *New Jersey*, the limits for clapper and king rails are 10 daily and 30 in possession.

(3) In *Maine*, the daily bag and possession limit for sora and Virginia rails is 25.

(4) In *Massachusetts*, the limits for sora are 5 daily and 15 in possession; the limits for Virginia rails are 10 daily and 30 in possession.

(5) In *New Jersey*, the season for king rail is closed by State regulation.

(6) In *New York*, the limits for sora and Virginia rails are 8 daily and 24 in possession. Seasons for sora and Virginia rails and snipe are closed on Long Island.

(7) In *Pennsylvania*, the limits for sora and Virginia rails are 3 daily and 9 in possession.

(8) In *Rhode Island*, the limits for sora and Virginia rails are 3 daily and 9 in possession, the limits for clapper and king rails are 1 daily and 3 in possession, and the limits for snipe are 5 daily and 15 in possession.

(9) In *Alabama*, the limits for sora and Virginia rails are 15 daily and 45 in possession.

(10) In *Illinois*, shooting hours are from sunrise to sunset.

(11) In *Indiana*, the season on Virginia rails is closed.

(12) In *Iowa*, the limits for sora and Virginia rails are 12 daily and 36 in possession.

(13) In *Nebraska and West Virginia*, the limits for sora and Virginia rails are 10 daily and 30 in possession.

(14) In *New Mexico*, in the Central Flyway portion of the State, the limits for sora and Virginia rails are 10 daily and 20 in possession.

(15) In *South Dakota*, the snipe limits are 5 daily and 15 in possession.

(16) In *Arizona*, Ashurst Lake in Unit 5B is closed to snipe hunting.

(17) In *Nevada*, the snipe season in that portion of the South Zone including the Moapa Valley to the confluence of the Muddy and Virgin rivers is only open October 30 through January 30.

■ 6. Section 20.105 is revised to read as follows:

**§ 20.105 Seasons, limits, and shooting hours for waterfowl, coots, and gallinules.**

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and

hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset,

except as otherwise noted. Area descriptions were published in the July 16, 2021, **Federal Register** (86 FR 37854).

CHECK STATE REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS.  
(a) *Gallinules*.

Area	Season dates	Limits	
		Bag	Possession
<b>ATLANTIC FLYWAY</b>			
Delaware	Sept. 4–Nov. 24	15	45
Florida (1)	Sept. 1–Nov.9	15	45
Georgia	Nov. 20–Nov. 28 & Dec. 12–Jan. 31	15 15	45 45
New Jersey	Sept. 1–Nov. 20	1	3
New York:			
Long Island	Closed		
Remainder of State	Sept. 1–Nov. 9	8	24
North Carolina	Sept. 4–Sept. 14 & Oct. 2–Dec. 11	15 15	45 45
Pennsylvania	Sept. 1–Nov. 20	3	9
South Carolina	Sept. 8–Sept. 12 & Oct. 4–Dec. 7	15 15	45 45
Virginia	Sept. 7–Nov. 15	15	45
West Virginia	Oct. 1–Oct. 14 & Dec. 7–Jan. 31	15 15	45 45
<b>MISSISSIPPI FLYWAY</b>			
Alabama	Sept. 11–Sept. 26 & Nov. 26–Jan. 18	15 15	45 45
Arkansas	Sept. 1–Nov. 9	15	45
Kentucky	Sept. 1–Nov. 9	3	9
Louisiana	Sept. 11–Sept. 26 & Nov. 13–Jan. 5	15 15	45 45
Michigan	Sept. 1–Nov. 9	1	3
Minnesota (2):			
North Zone	Sept. 25–Nov. 23	15	45
Central Zone	Sept. 25–Oct. 3 & Oct. 9–Nov. 28	15 15	45 45
South Zone	Sept. 25–Oct. 3 & Oct. 9–Nov. 28	15 15	45 45
Mississippi	Sept. 1–Oct. 3 & Nov. 26–Jan. 1	15 15	45 45
Ohio	Sept. 1–Nov. 9	15	45
Tennessee:	Sept. 1–Nov. 9	15	45
Wisconsin	Sept. 1–Nov. 9	8	24
<b>CENTRAL FLYWAY</b>			
New Mexico:			
Zone 1	Sept. 11–Nov. 19	1	3
Zone 2	Sept. 11–Nov. 19	1	3
Oklahoma	Sept. 1–Nov. 9	15	45
Texas	Sept. 11–Sept. 26 & Nov. 6–Dec. 29	15 15	45 45
<b>PACIFIC FLYWAY</b>			
All States	Seasons are in the aggregate with coots and listed in paragraph (e).		

(1) The season applies to common gallinules only.  
(2) In *Minnesota*, the daily bag limit is 15 and the possession limit is 45 coots and gallinules in the aggregate.

(b) *Special Sea Duck Seasons (Scoters, Eiders, and Long-Tailed Ducks in Atlantic Flyway).*

Within the special sea duck areas, the daily bag limit is 5 scoters, eiders, and long-tailed ducks in the aggregate, including no more than 4 scoters, 4 eiders, and 4 long-tailed ducks. Possession limits are three times the

daily bag limit. These limits may be in addition to regular duck bag limits only during the regular duck season in the special sea duck hunting areas.

**Note:** Notwithstanding the provisions of this part, the shooting of crippled waterfowl from a motorboat under power will be permitted in *Connecticut, Delaware, Georgia, Maine, Maryland, Massachusetts, New*

*Hampshire, New Jersey, New York, North Carolina, Rhode Island, South Carolina, and Virginia* in those areas described, delineated, and designated in their respective hunting regulations as special sea duck hunting areas.

Area	Season dates	Limits	
		Bag	Possession
Connecticut .....	Nov. 11–Jan. 19 .....	5	15
Delaware .....	Nov. 23–Jan. 31 .....	5	15
Georgia .....	Nov. 20–Nov. 28 & .....	5	15
	Dec. 12–Jan. 31 .....	5	15
Maine .....	Nov. 8–Jan. 15 .....	5	15
Maryland .....	Oct. 30–Jan. 7 .....	5	15
Massachusetts (1) .....	Nov. 15–Jan. 22 .....	5	15
New Hampshire .....	Nov. 18–Jan. 16 .....	5	15
New Jersey .....	Nov. 6–Jan. 14 .....	5	15
North Carolina .....	Nov. 23–Jan. 31 .....	5	15
Rhode Island .....	Nov. 25–Jan. 23 .....	5	15
South Carolina .....	Nov. 20–Nov. 27 & .....	5	15
	Dec. 12–Jan. 31 .....	5	15
Virginia .....	Nov. 11–Jan. 9 .....	5	15

(1) In *Massachusetts*, the daily bag limit may not include more than 1 hen eider. The possession limit is three times the daily bag limit.

(c) *Early (September) Duck Seasons.*

**Note:** Unless otherwise specified, the seasons listed below are for teal only.

Area	Season dates	Limits	
		Bag	Possession
<b>ATLANTIC FLYWAY</b>			
Delaware (1) .....	Sept. 11–Sept. 29 .....	6	18
Florida (2) .....	Sept. 18–Sept. 26 .....	6	18
Georgia .....	Sept. 11–Sept. 26 .....	6	18
Maryland (1) .....	Sept. 16–Sept. 30 .....	6	18
North Carolina (1) .....	Sept. 11–Sept. 29 .....	6	18
South Carolina (3) .....	Sept. 10–Sept. 25 .....	6	18
Virginia (1)			
Area East of Interstate 95 .....	Sept. 17–Sept. 30 .....	6	18
Area West of Interstate 95 .....	Sept. 21–Sept. 30 .....	6	18
<b>MISSISSIPPI FLYWAY</b>			
Alabama .....	Sept. 11–Sept. 26 .....	6	18
Arkansas (3) .....	Sept. 15–Sept. 30 .....	6	18
Illinois (3) .....	Sept. 11–Sept. 26 .....	6	18
Indiana (3) .....	Sept. 11–Sept. 26 .....	6	18
Iowa (3) .....	Sept. 1–Sept. 16 .....	6	18
Kentucky (2) .....	Sept. 18–Sept. 26 .....	6	18
Louisiana .....	Sept. 11–Sept. 26 .....	6	18
Michigan .....	Sept. 1–Sept. 16 .....	6	18
Minnesota (3) .....	Sept. 4–Sept. 8 .....	6	18
Mississippi .....	Sept. 11–Sept. 26 .....	6	18
Missouri (3) .....	Sept. 11–Sept. 26 .....	6	18
Ohio (3) .....	Sept. 4–Sept. 19 .....	6	18
Tennessee (2) .....	Sept. 11–Sept. 19 .....	6	18
Wisconsin .....	Sept. 1–Sept. 9 .....	6	18
<b>CENTRAL FLYWAY</b>			
Colorado (1) .....	Sept. 11–Sept. 19 .....	6	18
Kansas:			
Low Plains .....	Sept. 11–Sept. 26 .....	6	18
High Plains .....	Sept. 18–Sept. 26 .....	6	18
Nebraska:			
Low Plains .....	Sept. 4–Sept. 19 .....	6	18
High Plains .....	Sept. 4–Sept. 12 .....	6	18
New Mexico .....	Sept. 11–Sept. 19 .....	6	18
Oklahoma .....	Sept. 11–Sept. 26 .....	6	18
Texas:			
High Plains .....	Sept. 11–Sept. 26 .....	6	18
Rest of State .....	Sept. 11–Sept. 26 .....	6	18

(1) Area restrictions. See State regulations.

(2) In *Florida*, *Kentucky*, and *Tennessee*, the daily bag limit for the first 5 days of the season is 6 wood ducks and teal in the aggregate, of which no more than 2 may be wood ducks. During the last 4 days of the season, the daily bag limit is 6 teal only. The possession limit is three times the daily bag limit.

(3) Shooting hours are from sunrise to sunset.

(d) *Special Early Canada and Cackling Goose Seasons.*

**Note:** Unless otherwise specified, the daily bag and possession limits for Canada and cackling geese are in the aggregate.

Area	Season dates	Limits	
		Bag	Possession
<b>ATLANTIC FLYWAY</b>			
<i>Connecticut</i> (1):			
North Zone .....	Sept. 1–Sept. 30 .....	15	45
South Zone .....	Sept. 15–Sept. 30 .....	15	45
<i>Delaware</i> .....	Sept. 1–Sept. 25 .....	15	45
<i>Florida</i> .....	Sept. 4–Sept. 26 .....	5	15
<i>Georgia</i> .....	Sept. 4–Sept. 26 .....	5	15
<i>Maine</i> :			
Northern Zone .....	Sept. 1–Sept. 25 .....	6	18
Southern Zone .....	Sept. 1–Sept. 25 .....	10	30
Coastal Zone .....	Sept. 1–Sept. 25 .....	10	30
<i>Maryland</i> (1)(2):			
Eastern Unit .....	Sept. 1–Sept. 15 .....	8	24
Western Unit .....	Sept. 1–Sept. 25 .....	8	24
<i>Massachusetts</i> :			
Central Zone .....	Sept. 1–Sept. 24 .....	15	45
Coastal Zone .....	Same as Central Zone .....	15	45
Western Zone .....	Same as Central Zone .....	15	45
<i>New Hampshire</i> .....	Sept. 1–Sept. 25 .....	5	15
<i>New Jersey</i> (1)(2)(3) .....	Sept. 1–Sept. 30 .....	15	45
<i>New York</i> (4):			
Lake Champlain Zone .....	Sept. 1–Sept. 25 .....	8	24
Northeastern Zone .....	Sept. 1–Sept. 25 .....	15	45
East Central Zone .....	Sept. 1–Sept. 25 .....	15	45
Hudson Valley Zone .....	Sept. 1–Sept. 25 .....	15	45
West Central Zone .....	Sept. 1–Sept. 25 .....	15	45
South Zone .....	Sept. 1–Sept. 25 .....	15	45
Western Long Island Zone .....	Closed .....		
Central Long Island Zone .....	Sept. 7–Sept. 30 .....	15	45
Eastern Long Island Zone .....	Sept. 7–Sept. 30 .....	15	45
<i>North Carolina</i> (5)(6) .....	Sept. 1–Sept. 30 .....	15	45
<i>Pennsylvania</i> (7):			
SJBZ Zone (8) .....	Sept. 1–Sept. 25 .....	5	15
Rest of State (9) .....	Sept. 1–Sept. 25 .....	8	24
<i>Rhode Island</i> (1) .....	Sept. 1–Sept. 30 .....	15	45
<i>South Carolina</i> .....	Sept. 1–Sept. 30 .....	15	45
<i>Vermont</i> :			
Lake Champlain Zone .....	Sept. 1–Sept. 25 .....	8	24
Interior Vermont Zone .....	Sept. 1–Sept. 25 .....	8	24
Connecticut River Zone (10) .....	Sept. 1–Sept. 25 .....	5	15
<i>Virginia</i> (11) .....	Sept. 1–Sept. 25 .....	10	30
<i>West Virginia</i> .....	Sept. 1–Sept. 12 .....	5	15
<b>CENTRAL FLYWAY</b>			
<i>North Dakota</i> :			
Missouri River Zone .....	Sept. 1–Sept. 7 .....	15	45
Western ND Canada, and Cackling Goose Zone .....	Sept. 1–Sept. 15 .....	15	45
Remainder of State .....	Sept. 1–Sept. 22 .....	15	45
<i>Oklahoma</i> .....	Sept. 11–Sept. 20 .....	8	24
<i>South Dakota</i> (12) .....	Sept. 1–Sept. 30 .....	8	24
<i>Texas</i> :			
East Zone .....	Sept. 11–Sept. 26 .....	5	15
<b>PACIFIC FLYWAY</b>			
<i>Colorado</i> .....	Sept. 1–Sept. 9 .....	4	12
<i>Idaho</i> :			
Zone 4 .....	Sept. 1–Sept. 15 .....	5	15
<i>Oregon</i> :			
Northwest Permit Zone .....	Sept. 11–Sept. 19 .....	5	15
Southwest Zone .....	Sept. 11–Sept. 15 .....	5	15
Eastern Zone .....	Sept. 11–Sept. 15 .....	5	15
Mid-Columbia Zone .....	Sept. 11–Sept. 15 .....	5	15
<i>Washington</i> :			
Area 1 .....	Sept. 4–Sept. 9 .....	5	15
Area 2 Inland .....	Sept. 4–Sept. 12 .....	5	15
Area 2 Coast (13) .....	Sept. 4–Sept. 12 .....	5	15



Area	Season dates	Limits	
		Bag	Possession
Area 3 .....	Sept. 4–Sept. 9 .....	5	15
Area 4 .....	Sept. 4–Sept. 5 .....	5	10
Area 5 .....	Sept. 4–Sept. 5 .....	5	10
<i>Wyoming:</i>			
Teton County Zone .....	Sept. 1–Sept. 8 .....	4	12
Balance of State Zone .....	Sept. 1–Sept. 8 .....	4	12

(1) Shooting hours are one-half hour before sunrise to one-half hour after sunset.

(2) The use of shotguns capable of holding more than 3 shotshells is allowed.

(3) The use of electronic calls is allowed.

(4) In *New York*, shooting hours are one-half hour before sunrise to one-half hour after sunset, the use of shotguns capable of holding more than 3 shotshells is allowed, and the use of electronic calls is allowed, except during Youth Waterfowl Hunting Days in Lake Champlain, North-eastern, and Southeastern Goose Hunting Areas. During the designated Youth Waterfowl Hunting Days in these areas, shooting hours are one-half hour before sunrise to sunset, shotguns must be capable of holding no more than 3 shotshells, and electronic calls are not allowed. See State regulations for further details.

(5) In *North Carolina*, the use of unplugged guns and electronic calls is allowed in that area west of U.S. Highway 17 only.

(6) In *North Carolina*, shooting hours are one-half hour before sunrise to one-half hour after sunset in that area west of U.S. Highway 17 only.

(7) In *Pennsylvania*, shooting hours are one-half hour before sunrise to one-half hour after sunset from September 1 to September 24. On September 25, shooting hours are one-half hour before sunrise to sunset.

(8) In *Pennsylvania*, in the area south of State Route (SR) 198 from the Ohio State line to intersection of SR 18, SR 18 south to SR 618, SR 618 south to U.S. Route 6, U.S. Route 6 east to U.S. Route 322/SR 18, U.S. Route 322/SR 18 west to intersection of SR 3013, SR 3013 south to the Crawford/Mercer County line, the season dates are September 1 to September 11. The daily bag limit is 1 goose with a possession limit of 3 geese. The season is closed on State Game Lands 214. However, during youth waterfowl hunting days, regular season regulations apply.

(9) In *Pennsylvania*, in the area of Lancaster and Lebanon Counties north of the Pennsylvania Turnpike I-76, east of SR 501 to SR 419, south of SR 419 to the Lebanon-Berks County line, west of the Lebanon-Berks County line and the Lancaster-Berks County line to SR 1053, west of SR 1053 to the Pennsylvania Turnpike I-76, the daily bag limit is 1 goose with a possession limit of 3 geese. On State Game Lands No. 46 (Middle Creek Wildlife Management Area), the season is closed. However, during youth waterfowl hunting days, regular season regulations apply.

(10) In *Vermont*, the season in the Connecticut River Zone is the same as the New Hampshire Inland Zone season, set by New Hampshire.

(11) In *Virginia*, shooting hours are one-half hour before sunrise to one-half hour after sunset from September 1 to September 16 in the area east of I-95. Shooting hours are one-half hour before sunrise to one-half hour after sunset from September 1 to September 20 in the area west of I-95.

(12) See State regulations for additional information and restrictions.

(13) In *Washington*, in Pacific County, the daily bag and possession limits are 15 and 45 Canada and cackling geese in the aggregate, respectively.

(e) *Waterfowl, Coots, and Pacific-Flyway Seasons for Gallinules.*

Definitions

*Atlantic Flyway:* Includes Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

*Mississippi Flyway:* Includes Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin.

*Central Flyway:* Includes Colorado (east of the Continental Divide), Kansas, Montana (Blaine, Carbon, Fergus, Judith Basin, Stillwater, Sweetgrass, Wheatland, and all counties east thereof), Nebraska, New Mexico (east of the Continental Divide except that the Jicarilla Apache Indian Reservation is in the Pacific Flyway), North Dakota, Oklahoma, South Dakota, Texas, and

Wyoming (east of the Continental Divide).

*Pacific Flyway:* Includes the States of Arizona, California, Colorado (west of the Continental Divide), Idaho, Montana (including and to the west of Hill, Chouteau, Cascade, Meagher, and Park Counties), Nevada, New Mexico (the Jicarilla Apache Indian Reservation and west of the Continental Divide), Oregon, Utah, Washington, and Wyoming (west of the Continental Divide including the Great Divide Basin).

*Light Geese:* Includes lesser snow (including blue) geese, greater snow geese, and Ross's geese.

*Dark Geese:* Includes Canada geese, cackling geese, white-fronted geese, brant (except in California, Oregon, Washington, and the Atlantic Flyway), and all other goose species except light geese.

**Note:** Unless otherwise specified, the daily bag and possession limits for Canada and cackling geese are in the aggregate.

**Atlantic Flyway**

*Flyway-Wide Restrictions*

*Duck Limits:* The daily bag limit of 6 ducks may include no more than 2 mallards (1 female mallards), 1 scaup (except as footnoted below), 2 black ducks, 1 pintail, 1 mottled duck, 1 fulvous whistling duck, 3 wood ducks, 2 redheads, 2 canvasbacks, 4 scoters, 4 eiders, and 4 long-tailed ducks. The possession limit is three times the daily bag limit.

*Harlequin Ducks:* All areas of the Flyway are closed to harlequin duck hunting.

*Merganser Limits:* The daily bag limit is 5 mergansers and may include no more than 2 hooded mergansers. In States that include mergansers in the duck bag limit, the daily limit is the same as the duck bag limit, of which only 2 may be hooded mergansers. The possession limit is three times the daily bag limit.

Area	Season dates	Limits	
		Bag	Possession
<i>Connecticut:</i>			
Ducks and Mergansers (1):			
North Zone .....	Oct. 9–Oct. 16 & .....	6	18
	Nov. 11–Jan. 11 .....	6	18
South Zone .....	Oct. 9–Oct. 13 & .....	6	18

Area	Season dates	Limits	
		Bag	Possession
	Nov. 16–Jan. 19 .....	6	18
Coots .....	Same as for Ducks .....	15	45
Canada, Cackling, and White-fronted Geese (2):			
AFRP Unit North .....	Oct. 9–Oct. 16 & .....	5	15
	Nov. 11–Dec. 11 & .....	5	15
	Dec. 24–Feb. 14 .....	5	15
AFRP Unit South .....	Oct. 9–Oct. 16 & .....	5	15
	Nov. 11–Dec. 11 & .....	5	15
	Dec. 24–Feb. 15 .....	5	15
NAP H-Unit North and H-Unit South .....	Oct. 9–Oct. 16 & .....	2	6
	Nov. 11–Jan. 11 .....	2	6
AP Unit North Zone .....	Nov. 25–Dec. 11 & .....	1	3
	Dec. 18–Jan. 4 .....	1	3
Special Season .....	Jan. 15–Feb. 15 .....	5	15
Light Geese:			
North Zone .....	Oct. 1–Jan. 15 & .....	25	.....
	Feb. 22–Mar. 10 .....	25	.....
South Zone .....	Oct. 1–Nov. 30 & .....	25	.....
	Jan. 6–Mar. 10 .....	25	.....
Brant:			
North Zone .....	Nov. 15–Jan. 11 .....	2	6
South Zone .....	Nov. 23–Jan. 19 .....	2	6
Delaware:			
Ducks .....	Oct. 22–Nov. 1 & .....	6	18
	Nov. 22–Nov. 27 & .....	6	18
	Dec. 10–Jan. 31 .....	6	18
Mergansers .....	Same as for Ducks .....	5	15
Coots .....	Same as for Ducks .....	15	45
Canada, Cackling, and White-fronted Geese (2) ..	Nov. 24–Nov. 27 & .....	1	3
	Dec. 24–Jan. 22 .....	1	3
Light Geese (3) .....	Oct. 1–Jan. 31 & .....	25	.....
	Feb. 5 only .....	25	.....
Brant .....	Nov. 22–Nov. 27 & .....	2	6
	Dec. 11–Jan. 31 .....	2	6
Florida:			
Ducks (4) .....	Nov. 20–Nov. 28 & .....	6	18
	Dec. 11–Jan. 30 .....	6	18
Mergansers .....	Same as for Ducks .....	5	15
Coots .....	Same as for Ducks .....	15	45
Canada and Cackling Geese .....	Nov. 20–Nov. 28 .....	5	15
	Dec. 1–Jan. 30 .....	5	15
Light Geese .....	Same as for Ducks .....	15	.....
Georgia:			
Ducks .....	Nov. 20–Nov. 28 & .....	6	18
	Dec. 12–Jan. 31 .....	6	18
Mergansers .....	Same as for Ducks .....	5	15
Coots .....	Same as for Ducks .....	15	45
Canada, Cackling, and White-fronted Geese (2) ..	Oct. 9–Oct. 24 & .....	5	15
	Nov. 20–Nov. 28 & .....	5	15
	Dec. 12–Jan. 31 .....	5	15
Light Geese .....	Same as for Canada, Cackling, and White-fronted Geese.	5	15
Brant .....	Closed .....	.....	.....
Maine:			
Ducks (5):			
North Zone .....	Sept. 27–Dec. 4 .....	6	18
South Zone .....	Oct. 1–Oct. 12 & .....	6	18
	Oct. 29–Dec. 25 .....	6	18
Coastal Zone .....	Oct. 1–Oct. 12 & .....	6	18
	Nov. 6–Jan. 3 .....	6	18
Mergansers .....	Same as for Ducks .....	5	15
Coots .....	Same as for Ducks .....	5	15
Canada, Cackling, and White-fronted Geese (2):			
North Zone .....	Oct. 1–Dec. 9 .....	2	6
South Zone .....	Oct. 1–Oct. 12 & .....	2	6
	Oct. 29–Dec. 25 .....	2	6
Coastal Zone .....	Oct. 1–Oct. 12 & .....	3	9
	Oct. 26–Jan. 3 .....	3	9
Light Geese .....	Oct. 1–Jan. 30 .....	25	25
Brant:			
North Zone .....	Sept. 27–Nov. 23 .....	2	6
South Zone .....	Oct. 1–Oct. 12 & .....	2	6

Area	Season dates	Limits	
		Bag	Possession
Coastal Zone	Oct. 29–Dec. 14	2	6
	Oct. 1–Oct. 12 &	2	6
	Nov. 18–Jan. 3	2	6
<i>Maryland:</i>			
Ducks and Mergansers (6)(7)	Oct. 16–Oct. 23 &	6	18
	Nov. 13–Nov. 26 &	6	18
	Dec. 15–Jan. 31	6	18
Coots	Same as for Ducks	15	45
Canada, Cackling, and White-fronted Geese (2):			
RP Zone	Nov. 20–Nov. 26 &	5	15
	Dec. 15–Mar. 10	5	15
AP Zone	Dec. 17–Jan. 1 &	1	3
	Jan. 13–Jan. 31	1	3
Light Geese	Oct. 1–Nov. 26 &	25	
	Dec. 13–Jan. 31 &	25	
	Feb. 5 only	25	
Brant	Nov. 17–Nov. 26 &	2	6
	Dec. 15–Jan. 31	2	6
<i>Massachusetts:</i>			
Ducks (8)(9):			
Western Zone	Oct. 11–Nov. 27 &	6	18
	Dec. 6–Dec. 27	6	18
Central Zone	Oct. 11–Nov. 27 &	6	18
	Dec. 13–Jan. 1	6	18
Coastal Zone	Oct. 16–Oct. 23 &	6	18
	Nov. 23–Jan. 22	6	18
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Canada and Cackling Geese:			
NAP Zone:			
Central Zone	Oct. 11–Nov. 27 &	2	6
	Dec. 13–Jan. 1	2	6
(Special season)	Jan. 15–Feb. 11	5	15
Coastal Zone	Oct. 16–Oct. 23 &	2	6
	Nov. 30–Jan. 29	2	6
(Special season) (10)	Jan. 31–Feb. 15	5	15
AP Zone	Oct. 11–Nov. 13	2	6
Light Geese:			
Western Zone	Oct. 11–Nov. 27 &	15	45
	Dec. 6–Dec. 25	15	45
Central Zone	Oct. 11–Nov. 27 &	15	45
	Dec. 13–Jan. 1 &	15	45
	Jan. 15–Feb. 11	15	45
Coastal Zone (10)	Oct. 16–Oct. 23 &	15	45
	Nov. 30–Jan. 29 &	15	45
	Jan. 31–Feb. 15	15	45
Brant:			
Western and Central Zones	Closed		
Coastal Zone	Nov. 26–Jan. 22	2	6
<i>New Hampshire:</i>			
Ducks:			
Northern Zone	Oct. 2–Nov. 30	6	18
Inland Zone	Oct. 5–Nov. 7 &	6	18
	Nov. 24–Dec. 19	6	18
Coastal Zone	Oct. 6–Oct. 17 &	6	18
	Nov. 24–Jan. 10	6	18
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Canada and Cackling Geese:			
Northern Zone	Oct. 2–Nov. 30	2	6
Inland Zone	Oct. 5–Nov. 7 &	2	6
	Nov. 24–Dec. 19	2	6
Coastal Zone	Oct. 6–Oct. 17 &	2	6
	Nov. 24–Jan. 10	2	6
Light Geese:			
Northern Zone	Oct. 2–Nov. 30	25	
Inland Zone	Oct. 5–Dec. 19	25	
Coastal Zone	Oct. 6–Jan. 10	25	
Brant:			
Northern Zone	Oct. 2–Nov. 20	2	6
Inland Zone	Oct. 5–Nov. 7 &	2	6
	Nov. 24–Dec. 9	2	6

Area	Season dates	Limits	
		Bag	Possession
Coastal Zone .....	Oct. 6–Oct. 17 & .....	2	6
	Nov. 24–Dec. 31 .....	2	6
<i>New Jersey:</i>			
Ducks (11):			
North Zone .....	Oct. 16–Oct. 23 & .....	6	18
	Nov. 13–Jan. 13 .....	6	18
South Zone .....	Oct. 23–Oct. 30 & .....	6	18
	Nov. 20–Jan. 20 .....	6	18
Coastal Zone .....	Nov. 11–Nov. 13 & .....	6	18
	Nov. 25–Jan. 29 .....	6	18
Mergansers .....	Same as for Ducks .....	5	15
Coots .....	Same as for Ducks .....	15	45
Canada, Cackling, and White-fronted Geese (2):			
North and South Zones .....	Nov. 25–Nov. 27 & .....	1	3
	Dec. 11–Jan. 11 .....	1	3
Coastal Zone .....	Nov. 11–Nov. 13 & .....	2	6
	Nov. 25–Jan. 29 .....	2	6
Special Season .....	Jan. 19–Feb. 15 .....	5	15
Light Geese:			
North, South, and Coastal Zones .....	Oct. 16–Feb. 15 .....	25	.....
Brant:			
North Zone .....	Oct. 16–Oct. 23 & .....	2	6
	Nov. 13–Jan. 1 .....	2	6
South Zone .....	Oct. 23–Oct. 30 & .....	2	6
	Nov. 20–Jan. 8 .....	2	6
Coastal Zone .....	Nov. 11–Nov. 13 & .....	2	6
	Nov. 25–Jan. 18 .....	2	6
<i>New York:</i>			
Ducks and Mergansers (12):			
Long Island Zone .....	Nov. 20–Nov. 28 & .....	6	18
	Dec. 11–Jan. 30 .....	6	18
Lake Champlain Zone .....	Oct. 13–Oct. 17 & .....	6	18
	Oct. 30–Dec. 23 .....	6	18
Northeastern Zone .....	Oct. 2–Oct. 24 & .....	6	18
	Oct. 30–Dec. 5 .....	6	18
Southeastern Zone .....	Oct. 16–Nov. 28 & .....	6	18
	Dec. 4–Dec. 19 .....	6	18
Western Zone .....	Oct. 16–Nov. 7 & .....	6	18
	Nov. 27–Jan. 2 .....	6	18
Coots .....	Same as for Ducks .....	15	45
Canada and Cackling Geese:			
Western Long Island (AFRP) .....	Oct. 19–Oct. 24 & .....	8	24
	Nov. 20–Nov. 28 & .....	8	24
	Dec. 8–Feb. 23 .....	8	24
Central Long Island (NAP–L) .....	Nov. 20–Nov. 28 & .....	3	9
	Dec. 11–Feb. 9 .....	3	9
Eastern Long Island (NAP–H) .....	Nov. 20–Nov. 28 & .....	2	6
	Dec. 11–Jan. 30 .....	2	6
Lake Champlain (AP) Zone .....	Oct. 13–Nov. 11 .....	1	3
Northeast (AP) Zone .....	Oct. 23–Oct. 24 & .....	1	3
	Oct. 30–Nov. 26 .....	1	3
East Central (AP) Zone .....	Oct. 23–Nov. 19 & .....	1	3
	Dec. 4–Dec. 5 .....	1	3
Hudson Valley (AP) Zone .....	Nov. 6–Nov. 19 & .....	1	3
	Dec. 4–Dec. 19 .....	1	3
West Central (AP) Zone .....	Oct. 23–Nov. 7 & .....	1	3
	Dec. 20–Jan. 2 .....	1	3
South (AFRP) .....	Oct. 23–Nov. 19 & .....	5	15
	Nov. 25–Jan. 13 .....	5	15
Light Geese (13):			
Long Island Zone .....	Nov. 20–Mar. 6 .....	25	.....
Lake Champlain Zone .....	Oct. 1–Dec. 31 .....	25	.....
Northeastern Zone .....	Oct. 1–Jan. 15 .....	25	.....
Southeastern Zone .....	Oct. 1–Jan. 15 .....	25	.....
Western Zone .....	Oct. 1–Jan. 15 .....	25	.....
Brant:			
Long Island Zone .....	Nov. 20–Nov. 28 & .....	2	6
	Dec. 21–Jan. 30 .....	2	6
Lake Champlain Zone .....	Oct. 13–Dec. 1 .....	2	6
Northeastern Zone .....	Oct. 2–Nov. 20 .....	2	6
Southeastern Zone .....	Oct. 2–Nov. 20 .....	2	6
Western Zone .....	Oct. 2–Nov. 20 .....	2	6

Area	Season dates	Limits	
		Bag	Possession
<i>North Carolina:</i>			
Ducks (14)(15):			
Coastal Zone .....	Oct. 29–Oct. 30 & .....	6	18
	Nov. 6–Nov. 29 & .....	6	18
	Dec. 18–Jan. 31 .....	6	18
Inland Sone .....	Oct. 21–Oct. 23 & .....	6	18
	Nov. 6–Nov. 27 & .....	6	18
	Dec. 18–Jan. 31 .....	6	18
Mergansers .....	Same as for Ducks .....	5	15
Coots .....	Same as for Ducks .....	15	45
Canada, Cackling, and White-fronted Geese (2):			
RP Hunt Zone .....	Oct. 21–Oct. 30 & .....	5	15
	Nov. 6–Nov. 29 & .....	5	15
	Dec. 18–Feb. 12 .....	5	15
Northeast Hunt Zone (16) .....	Jan. 15–Jan. 31 .....	1	3
Light Geese .....	Oct. 12–Feb. 12 .....	25	.....
Brant .....	Dec. 18–Jan. 31 .....	1	3
<i>Pennsylvania:</i>			
Ducks (17):			
North Zone .....	Oct. 9–Oct. 23 & .....	6	18
	Nov. 16–Jan. 8 .....	6	18
South Zone .....	Oct. 9–Oct. 16 & .....	6	18
	Nov. 23–Jan. 22 .....	6	18
Northwest Zone .....	Oct. 9–Dec. 4 & .....	6	18
	Dec. 28–Jan. 8 .....	6	18
Lake Erie Zone .....	Nov. 1–Jan. 8 .....	6	18
Mergansers .....	Same as for Ducks .....	5	15
Coots .....	Same as for Ducks .....	15	45
Canada, Cackling, and White-fronted Geese (2):			
Eastern (AP) Zone .....	Nov. 23–Nov. 26 & .....	1	3
	Dec. 24–Jan. 22 .....	1	3
SJBP Zone .....	Oct. 23–Nov. 26 & .....	3	9
	Dec. 20–Feb. 12 .....	3	9
Resident (RP) Zone .....	Oct. 23–Nov. 26 & .....	5	15
	Dec. 13–Jan. 15 & .....	5	15
	Feb. 4–Feb. 26 .....	5	15
Light Geese:			
Eastern (AP) Zone .....	Oct. 1–Jan. 29 .....	25	.....
SJBP Zone .....	Oct. 12–Feb. 12 .....	25	.....
Resident (RP) Zone .....	Oct. 26–Feb. 26 .....	25	.....
Brant .....	Oct. 9–Dec. 6 .....	2	6
<i>Rhode Island:</i>			
Ducks (18)			
	Oct. 8–Oct. 11 & .....	6	18
	Nov. 24–Nov. 28 & .....	6	18
	Dec. 4–Jan. 23 .....	6	18
Mergansers .....	Same as for Ducks .....	5	15
Coots .....	Same as for Ducks .....	15	45
Canada and Cackling Geese			
	Nov. 20–Nov. 28 & .....	2	6
	Dec. 4–Jan. 23 .....	2	6
(Special season) .....	Jan. 29–Feb. 12 .....	5	15
Light Geese .....	Oct. 9–Jan. 23 .....	25	75
Brant .....	Dec. 5–Jan. 23 .....	2	6
<i>South Carolina:</i>			
Ducks (19)(20)(21)			
	Nov. 13 & .....	6	18
	Nov. 20–Nov. 27 & .....	6	18
	Dec. 12–Jan. 31 .....	6	18
Mergansers (22) .....	Same as for Ducks .....	5	15
Coots .....	Same as for Ducks .....	15	45
Canada, Cackling, and White-fronted Geese			
(2)(23)(24).	Nov. 20–Nov. 27 & .....	5	15
	Dec. 12–Jan. 31 .....	5	15
	Feb. 15–Mar. 1 .....	5	15
Light Geese .....	Same as for Canada, Cackling, and White-fronted Geese.	25	.....
Brant .....	Dec. 13–Jan. 31 .....	2	6
<i>Vermont:</i>			
Ducks (25):			
Lake Champlain Zone .....	Oct. 13–Oct. 17 & .....	6	18
	Oct. 30–Dec. 23 .....	6	18
Interior Zone .....	Oct. 13–Dec. 11 .....	6	18
Connecticut River Zone .....	Oct. 5–Nov. 7 & .....	6	18
	Nov. 24–Dec. 19 .....	6	18

Area	Season dates	Limits	
		Bag	Possession
Mergansers .....	Same as for Ducks .....	5	15
Coots .....	Same as for Ducks .....	15	45
Canada, Cackling, and White-fronted Geese (2):			
Lake Champlain Zone .....	Oct. 13–Nov. 11 .....	1	3
Interior Zone .....	Oct. 13–Nov. 11 .....	1	3
Connecticut River Zone .....	Oct. 5–Nov. 7 & .....	2	6
	Nov. 24–Dec. 19 .....	2	6
Light Geese:			
Lake Champlain Zone .....	Oct. 1–Dec. 31 & .....	25	.....
	Feb. 26–Mar. 10 .....	25	.....
Interior Zone .....	Oct. 1–Dec. 31 & .....	25	.....
	Feb. 26–Mar. 10 .....	25	.....
Connecticut River Zone .....	Oct. 5–Dec. 19 .....	25	.....
Brant:			
Lake Champlain Zone .....	Oct. 13–Dec. 1 .....	2	6
Interior Zone .....	Oct. 13–Dec. 1 .....	2	6
Connecticut River Zone .....	Oct. 5–Nov. 7 & .....	2	6
	Nov. 24–Dec. 9 .....	2	6
Virginia:			
Ducks (26)(27) .....	Oct. 8–Oct. 11 & .....	6	18
	Nov. 17–Nov. 28 & .....	6	18
	Dec. 18–Jan. 30 .....	6	18
Mergansers .....	Same as for Ducks .....	5	15
Coots .....	Same as for Ducks .....	15	45
Canada, Cackling, and White-fronted Geese (2):			
Eastern (AP) Zone .....	Dec. 18–Dec. 31 & .....	1	3
	Jan. 15–Jan. 30 .....	1	3
Western (SJB) Zone .....	Nov. 17–Nov. 28 & .....	3	9
	Dec. 18–Jan. 14 & .....	3	9
(Special season) .....	Jan. 15–Feb. 15 .....	3	9
Western (RP) Zone .....	Nov. 17–Nov. 28 & .....	5	15
	Dec. 18–Feb. 23 .....	5	15
Light Geese .....	Oct. 17–Jan. 31 .....	25	.....
Brant .....	Nov. 23–Nov. 28 & .....	2	6
	Dec. 18–Jan. 30 .....	2	6
West Virginia:			
Ducks (28)(29) .....	Oct. 1–Oct. 14 & .....	6	18
	Nov. 8–Nov. 13 & .....	6	18
	Dec. 23–Jan. 31 .....	6	18
Mergansers .....	Same as for Ducks .....	5	15
Coots .....	Same as for Ducks .....	15	30
Canada, Cackling, and White-fronted Geese (2) ..	Oct. 1–Oct. 16 & .....	5	15
	Nov. 8–Nov. 13 & .....	5	15
	Dec. 5–Jan. 31 .....	5	15
Light Geese .....	Same as for Canada, Cackling, and White-fronted Geese.	5	15
Brant .....	Dec. 13–Jan. 31 .....	2	6

(1) In *Connecticut*, the daily bag limit for scaup is 2 from December 19 through January 11 in the North Zone and from December 28 through January 19.

(2) The daily bag and possession limits for Canada geese, cackling geese, and white-fronted geese are in the aggregate.

(3) In *Delaware*, the Bombay Hook National Wildlife Refuge (NWR) snow goose season is open Mondays, Wednesdays, and Fridays only.

(4) In *Florida*, the daily bag limit for scaup is 2 from January 11 through January 30.

(5) In *Maine*, the daily bag limit may include no more than 4 of any species, with no more than 12 of any one species in possession. The season for Barrow's goldeneye is closed. Scaup bag limit is 1 for the entire season.

(6) In *Maryland*, the black duck season is closed in the first (October) segment. Two black ducks may be harvested as part of the daily duck bag limit during the 2nd and 3rd season segments of the regular duck season in both the Eastern and Western Duck Zones. Additionally, the daily bag limit of 6 ducks may include no more than 5 sea ducks, of which no more than 4 may be scoters, eiders, or long-tailed ducks. Where the Offshore Waterfowl Hunting Zone (defined by State regulation 08.03.07.07) overlaps the area open for the Special Sea Duck Season (defined by State regulation 08.03.07.04), sea ducks (scoters, long-tailed ducks, and eiders) may only be taken during the dates of the Special Sea Duck Season. Light Goose Conservation Order Dates: November 29 through December 11; February 1 through February 4; and February 7 through April 15.

(7) In *Maryland*, during the regular duck season the scaup bag limit will be 1 during all portions of the regular duck season that occur prior to January 8. The scaup bag limit will be 2 from January 8 through January 31 in both the Eastern and Western duck zones.

(8) In *Massachusetts*, the daily bag limit may include no more than 4 of any single species in addition to the flyway-wide bag restrictions.

(9) In *Massachusetts*, the daily bag limit for scaup is 2 from December 31 through January 22 in the Coastal Zone.

(10) In *Massachusetts*, the January 31 through February 15 portion of the season in the Coastal Zone is restricted to that portion of the Coastal Zone north of the Cape Cod Canal.

(11) In *New Jersey*, the daily bag limit for scaup is 2 from December 22 through January 13 in the North Zone, from December 29 through January 20 in the South Zone, and from January 7 through January 29 in the Coastal Zone.

(12) In *New York*, the daily bag limit for scaup is 2 from November 16 through December 5 in the Northeast Zone, from December 14 through January 2 in the Western Zone, from November 25 through November 28 and December 4 through December 19 in the Southeast Zone, from January 11 through January 30 in the Long Island Zone, and from October 13 through October 17 and October 30 through November 13 in the Lake Champlain Zone.

(13) In *New York*, the use of electronic calls and shotguns capable of holding more than 3 shotshells are allowed for hunting of light geese on any day when all other waterfowl hunting seasons are closed.

- (14) In *North Carolina*, the season is closed for black ducks and mottled ducks October 21 through October 30 and November 6 through November 19.
- (15) In *North Carolina*, the daily bag limit for scaup is 2 from January 8 through January 31.
- (16) In *North Carolina*, a permit is required to hunt Canada, cackling, and white-fronted geese in the Northeast Hunt Zone.
- (17) In *Pennsylvania*, during the regular duck season in the North Zone, the scaup bag limit will be 1 from October 9 through October 23 and from November 16 through December 16. The scaup bag limit will be 2 from December 17 through January 8. During the regular duck season in the South Zone, the scaup bag limit will be 1 from October 9 through October 16 and from November 23 through December 30. The scaup bag limit will be 2 from December 31 through January 22. During the regular duck season in the Northwest Zone, the scaup bag limit will be 1 from October 9 through November 24. The scaup bag limit will be 2 from November 25 through December 4 and from December 28 through January 8. During the regular duck season in the Lake Erie Zone, the scaup bag limit will be 2 from November 1 through November 23. The scaup bag limit will be 1 from November 24 through January 8.
- (18) In *Rhode Island*, the daily bag limit for scaup is 2 from January 4 through January 23.
- (19) In *South Carolina*, the daily bag limit of 6 may not exceed 1 black-bellied whistling duck or hooded merganser. Further, the black duck/mottled duck limit is as follows: (1) For areas east and south of Interstate 95, either 1 black or 1 mottled duck in the daily bag in the aggregate; (2) for areas west and north of Interstate 95, either 2 black ducks, or 1 black duck and 1 mottled duck in the daily bag.
- (20) In *South Carolina*, the daily bag limit for scaup is 2 on November 13, between November 20 and November 27, and between December 12 and December 22.
- (21) In *South Carolina*, on November 14, only hunters 17 years of age or younger can hunt ducks, coots, and mergansers. The youth must be accompanied by a person 21 years of age or older who is properly licensed, including State and Federal waterfowl stamps. Youth who are 16 or 17 years of age who hunt on this day are not required to have a State license or State waterfowl stamp but must possess a Federal waterfowl stamp and migratory bird permit.
- (22) In *South Carolina*, the daily bag limit for mergansers may include no more than 1 hooded merganser.
- (23) In *South Carolina*, the daily bag limit may include no more than 2 white-fronted geese.
- (24) In *South Carolina*, the hunting area for Canada and cackling geese excludes that portion of Clarendon County bounded to the north by S-14-25; to the east by Highway 260; and to the south by the markers delineating the channel of the Santee River. It also excludes that portion of Clarendon County bounded on the north by S-14-26 and extending southward to that portion of Orangeburg County bordered by Highway 6.
- (25) In *Vermont*, the daily bag limit for scaup is 2 within the Lake Champlain Zone: From October 13 through October 17 and from October 30 through November 13. Within the Interior Zone: From October 13 through November 1. Within the Connecticut River Zone: During the regular duck season the scaup bag limit will be 1 for the entire season.
- (26) In *Virginia*, the season is closed for black ducks October 8 through October 11.
- (27) In *Virginia*, the daily bag limit for scaup is 2 from January 11 through January 30.
- (28) In *West Virginia*, the season is closed for eiders, whistling ducks, and mottled ducks.
- (29) In *West Virginia*, the daily bag limit for scaup is 2 from January 12 through January 31.

**Mississippi Flyway**

*Flyway-Wide Restrictions*

*Duck Limits:* The daily bag limit of 6 ducks may include no more than 4 mallards (no more than 2 of which may be females), 1 mottled duck, 2 black

ducks, 1 pintail, 2 canvasbacks, 2 redheads, 1 scaup (except as footnoted below), and 3 wood ducks. The possession limit is three times the daily bag limit.

*Merganser Limits:* The daily bag limit is 5 mergansers and may include no

more than 2 hooded mergansers. In States that include mergansers in the duck bag limit, the daily limit is the same as the duck bag limit, of which only 2 may be hooded mergansers. The possession limit is three times the daily bag limit.

Area	Season dates	Limits	
		Bag	Possession
<i>Alabama:</i>			
Ducks	Nov. 26–Nov. 27 & Dec. 4–Jan. 30	6	18
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
Dark Geese	Sept. 4–Oct. 3 & Oct. 16–Oct. 30 & Nov. 26–Nov. 27 & Dec. 4–Jan. 30	5	15
Light Geese	Same as for Dark Geese	5	15
<i>Arkansas:</i>			
Ducks	Nov. 20–Nov. 29 & Dec. 11–Dec. 23 & Dec. 26–Jan. 31	6	18
Mergansers	Same as for Ducks	5	10
Coots	Same as for Ducks	15	45
Canada and Cackling Geese	Sept. 1–Sept. 30 & Oct. 30–Nov. 1 & Nov. 20–Dec. 3 & Dec. 5–Jan. 31	5	15
White-fronted Geese	Oct. 30–Nov. 14 & Nov. 20–Dec. 3 & Dec. 5–Jan. 31	3	9
Brant	Closed	2	6
Light Geese	Same as for White-fronted Geese	2	6
<i>Illinois:</i>			
Ducks (1):			
North Zone	Oct. 23–Dec. 21	6	18
Central Zone	Oct. 30–Dec. 28	6	18
South Central Zone	Nov. 13–Jan. 11	6	18
South Zone	Nov. 27–Jan. 25	6	18
Mergansers	Same as for Ducks	5	15

Area	Season dates	Limits	
		Bag	Possession
Coots .....	Same as for Ducks .....	15	45
Canada and Cackling Geese:			
North Zone .....	Sept. 1–Sept. 15 & .....	5	15
	Oct. 23–Jan. 20 .....	3	9
Central Zone .....	Sept. 1–Sept. 15 & .....	5	15
	Oct. 30–Nov. 7 & .....	3	9
	Nov. 12–Jan. 31 .....	3	9
South Central Zone .....	Sept. 1–Sept. 15 & .....	2	6
	Nov. 13–Jan. 31 .....	3	9
South Zone .....	Sept. 1–Sept. 15 & .....	2	6
	Nov. 27–Jan. 31 .....	3	9
White-fronted Geese:			
North Zone .....	Oct. 25–Jan. 20 .....	2	6
Central Zone .....	Nov. 5–Jan. 31 .....	2	6
South Central Zone .....	Nov. 13–Jan. 31 .....	2	6
South Zone .....	Nov. 27–Jan. 31 .....	2	6
Light Geese:			
North Zone .....	Oct. 23–Jan. 20 .....	20	.....
Central Zone .....	Oct. 30–Jan. 31 .....	20	.....
South Central Zone .....	Nov. 13–Jan. 31 .....	20	.....
South Zone .....	Nov. 27–Jan. 31 .....	20	.....
Brant .....	Same as for Light Geese .....	1	3
Indiana:			
Ducks (2):			
North Zone .....	Oct. 23–Dec. 12 & .....	6	18
	Dec. 26–Jan. 3 .....	6	18
Central Zone .....	Oct. 30–Nov. 7 & .....	6	18
	Nov. 20–Jan. 9 .....	6	18
South Zone .....	Nov. 6–Nov. 7 & .....	6	18
	Nov. 27–Jan. 23 .....	6	18
Mergansers .....	Same as for Ducks .....	5	15
Coots .....	Same as for Ducks .....	15	45
Dark Geese (3):			
North Zone .....	Sept. 11–Sept. 19 & .....	5	15
	Oct. 23–Oct. 31 & .....	5	15
	Nov. 20–Feb. 13 .....	5	15
Central Zone .....	Sept. 11–Sept. 19 & .....	5	15
	Oct. 30–Nov. 7 & .....	5	15
	Nov. 20–Feb. 13 .....	5	15
South Zone .....	Sept. 11–Sept. 19 & .....	5	15
	Nov. 6–Nov. 21 & .....	5	15
	Nov. 27–Feb. 13 .....	5	15
Light Geese:			
North Zone .....	Same as for Dark Geese .....	20	.....
Central Zone .....	Same as for Dark Geese .....	20	.....
South Zone .....	Same as for Dark Geese .....	20	.....
Iowa:			
Ducks (4):			
North Zone .....	Oct. 2–Oct. 8 & .....	6	18
	Oct. 16–Dec. 7 .....	6	18
Central Zone .....	Oct. 9–Oct. 15 & .....	6	18
	Oct. 23–Dec 14 .....	6	18
South Zone .....	Oct. 16–Oct. 22 & .....	6	18
	Oct. 30–Dec 21 .....	6	18
Mergansers .....	Same as for Ducks .....	5	15
Coots .....	Same as for Ducks .....	15	45
Dark Geese:			
North Zone Canada and Cackling Geese only .....	Sept. 4–Sept. 12 .....	5	15
North Zone (5) .....	Sept. 25–Oct. 10 & .....	5	15
	Oct. 16–Dec. 7 & .....	5	15
	Dec. 11–Jan. 8 .....	5	15
Central Zone Canada and Cackling Geese only .....	Sept. 4–Sept. 12 .....	5	15
Central Zone (5) .....	Oct. 2–Oct. 17 & .....	5	15
	Oct. 23–Dec. 14 & .....	5	15
	Dec. 18–Jan. 15 .....	5	15
South Zone (5) .....	Oct. 9–Oct. 24 & .....	5	15
	Oct. 30–Dec. 21 & .....	5	15
	Dec. 25–Jan. 22 .....	5	15
Light Geese:			
North Zone .....	Same as for Dark Geese .....	20	.....
Missouri River Zone .....	Same as for Dark Geese .....	20	.....
South Zone .....	Same as for Dark Geese .....	20	.....



Area	Season dates	Limits	
		Bag	Possession
<i>Kentucky:</i>			
Ducks (6):			
West Zone .....	Nov. 25–Nov. 28 & .....	6	18
	Dec. 7–Jan. 31 .....	6	18
East Zone .....	Same as West Zone .....	6	18
Mergansers .....	Same as for Ducks .....	5	15
Coots .....	Same as for Ducks .....	15	45
Canada and Cackling Geese .....	Sept. 16–Sept. 30 & .....	5	15
	Nov. 25–Feb. 15 .....	3	9
White-fronted Geese .....	Nov. 25–Feb. 15 .....	2	6
Brant .....	Nov. 25–Feb. 15 .....	1	3
Light Geese .....	Nov. 25–Feb. 15 .....	20	60
<i>Louisiana:</i>			
Ducks (7):			
East Zone .....	Nov. 20–Dec. 5 & .....	6	18
	Dec. 18–Jan. 30 .....	6	18
West Zone .....	Nov. 13–Dec. 5 & .....	6	18
	Dec. 18–Jan. 2 & .....	6	18
	Jan. 10–Jan. 30 .....	6	18
Mergansers .....	Same as for Ducks .....	5	15
Coots .....	Same as for Ducks .....	15	45
Canada and Cackling Geese:			
East Zone .....	Nov. 6–Dec. 5 & .....	1	3
	Dec. 18–Jan. 30 .....	1	3
West Zone .....	Nov. 6–Dec. 5 & .....	1	3
	Dec. 18–Jan. 2 & .....	1	3
	Jan. 10–Feb. 6 .....	1	3
White-fronted Geese .....	Same as for Canada and Cackling Geese .....	3	9
Brant .....	Closed .....		
Light Geese .....	Same as for Canada and Cackling Geese .....	20	
<i>Michigan:</i>			
Ducks (8):			
North Zone .....	Sept. 25–Nov. 21 & .....	6	18
	Nov. 27–Nov. 28 .....	6	18
Middle Zone .....	Oct. 2–Nov. 28 & .....	6	18
	Dec. 11–Dec. 12 .....	6	18
South Zone .....	Oct. 9–Dec. 5 & .....	6	18
	Jan. 1–Jan. 2 .....	6	18
Mergansers .....	Same as for Ducks .....	5	15
Coots .....	Same as for Ducks .....	15	45
Dark Geese (9):			
North Zone .....	Sept. 1–Dec. 16 .....	5	15
Middle Zone .....	Sept. 1–Dec. 16 .....	5	15
South Zone:			
Muskegon Wastewater GMU .....	Oct. 16–Dec. 23 .....	5	15
Allegan County GMU .....	Sept. 1–Sept. 30 & .....	5	15
	Nov. 6–Nov. 13 & .....	5	15
	Nov. 25–Dec. 5 & .....	5	15
	Dec. 18–Feb. 13 .....	5	15
Remainder of South Zone .....	Sept. 1–Sept. 30 & .....	5	15
	Oct. 9–Dec. 5 & .....	5	15
	Jan. 1–Jan. 9 & .....	5	15
	Feb. 5–Feb. 14 .....	5	15
Light Geese:			
North Zone .....	Same as for Dark Geese .....	20	60
Middle Zone .....	Same as for Dark Geese .....	20	60
South Zone:			
Muskegon Wastewater GMU .....	Same as for Dark Geese .....	20	60
Allegan County GMU .....	Same as for Dark Geese .....	20	60
Remainder of South Zone .....	Same as for Dark Geese .....	20	60
<i>Minnesota:</i>			
Ducks (10):			
North Zone .....	Sept. 25–Nov. 23 .....	6	18
Central Zone .....	Sept. 25–Oct. 3 & .....	6	18
	Oct. 9–Nov. 28 .....	6	18
South Zone .....	Sept. 25–Oct. 3 & .....	6	18
	Oct. 9–Nov. 28 .....	6	18
Mergansers .....	Same as for Ducks .....	5	15
Coots (11) .....	Same as for Ducks .....	15	45
Dark Geese:			
North Zone .....	Sept. 4–Sept. 19 & .....	5	15
	Sept. 25–Dec. 24 .....	5	15

Area	Season dates	Limits	
		Bag	Possession
Central Zone .....	Sept. 4–Sept. 19 & .....	5	15
	Sept. 25–Oct. 3 & .....	5	15
	Oct. 9–Dec. 29 .....	5	15
South Zone .....	Sept. 4–Sept. 19 & .....	5	15
	Sept. 25–Oct. 3 & .....	5	15
	Oct. 9–Dec. 29 .....	5	15
Light Geese:			
North Zone .....	Same as for Dark Geese .....	20	60
Central Zone .....	Same as for Dark Geese .....	20	60
South Zone .....	Same as for Dark Geese .....	20	60
<i>Mississippi:</i>			
Ducks (6) .....	Nov. 26–Nov. 28 & .....	6	18
	Dec. 3–Dec. 5 & .....	6	18
	Dec. 9–Jan. 31 .....	6	18
Mergansers .....	Same as for Ducks .....	5	15
Coots .....	Same as for Ducks .....	15	45
Canada and Cackling Geese .....	Sept. 1–Sept. 30 & .....	5	15
	Nov. 12–Nov. 28 & .....	5	15
	Dec. 3–Dec. 5 & .....	5	15
	Dec. 9–Jan. 31 .....	5	15
White-fronted Geese .....	Nov. 12–Nov. 28 & .....	3	9
	Dec. 3–Dec. 5 & .....	3	9
	Dec. 9–Jan. 31 .....	3	9
Brant .....	Same as for White-fronted Geese .....	1	3
Light Geese .....	Same as for White-fronted Geese .....	20	.....
<i>Missouri:</i>			
Ducks and Mergansers (12):			
North Zone .....	Oct. 30–Dec. 28 .....	6	18
Middle Zone .....	Nov. 6–Nov. 14 & .....	6	18
	Nov. 20–Jan. 9 .....	6	18
South Zone .....	Nov. 25–Nov. 28 & .....	6	18
	Dec. 7–Jan. 31 .....	6	18
Coots .....	Same as for Ducks .....	15	45
Canada, Cackling Geese, and Brant (13):			
North Zone .....	Oct. 2–Oct. 10 & .....	3	9
	Nov. 11–Feb. 6 .....	3	9
Middle Zone .....	Same as North Zone .....	3	9
South Zone .....	Same as North Zone .....	3	9
White-fronted Geese:			
North Zone .....	Nov. 11–Feb. 6 .....	2	6
Middle Zone .....	Same as North Zone .....	2	6
South Zone .....	Same as North Zone .....	2	6
Light Geese:			
North Zone .....	Nov. 11–Feb. 6 .....	20	.....
Middle Zone .....	Same as North Zone .....	20	.....
South Zone .....	Same as North Zone .....	20	.....
<i>Ohio:</i>			
Ducks (14):			
Lake Erie Marsh Zone .....	Oct. 16–Oct. 31 & .....	6	18
	Nov. 6–Dec. 19 .....	6	18
North Zone .....	Oct. 23–Oct. 31 & .....	6	18
	Nov. 13–Jan. 2 .....	6	18
South Zone .....	Oct. 23–Oct. 31 & .....	6	18
	Dec. 11–Jan. 30 .....	6	18
Mergansers .....	Same as for Ducks .....	5	15
Coots .....	Same as for Ducks .....	15	45
Dark Geese (15):			
Lake Erie Goose Zone .....	Sept. 4–Sept. 12 & .....	5	15
	Oct. 16–Oct. 31 & .....	5	15
	Nov. 6–Dec. 19 .....	5	15
	Jan. 1–Feb. 5 .....	5	15
North Zone .....	Sept. 4–Sept. 12 & .....	5	15
	Oct. 23–Oct. 31 & .....	5	15
	Nov. 13–Feb. 5 .....	5	15
South Zone .....	Sept. 4–Sept. 12 & .....	5	15
	Oct. 23–Oct. 31 & .....	5	15
	Nov. 18–Feb. 12 .....	5	15
Light Geese:			
Lake Erie Goose Zone .....	Same as Dark Geese .....	10	30
North Zone .....	Same as Dark Geese .....	10	30
South Zone .....	Same as Dark Geese .....	10	30
<i>Tennessee:</i>			

Area	Season dates	Limits	
		Bag	Possession
Ducks (16):			
Reelfoot Zone .....	Nov. 13–Nov. 14 & .....	6	18
	Dec. 4–Jan. 30 .....	6	18
Rest of State .....	Nov. 27–Nov. 28 & .....	6	18
	Dec. 4–Jan. 30 .....	6	18
Mergansers .....	Same as for Ducks .....	5	15
Coots .....	Same as for Ducks .....	15	45
Canada and Cackling Geese:			
Reelfoot Zone .....	Sept. 1–Sept. 19 & .....	5	15
	Oct. 9–Oct. 19 & .....	3	9
	Nov. 13–Nov. 14 & .....	3	9
	Dec. 4–Jan. 30 .....	3	9
Rest of State .....	Sept. 1–Sept. 19 & .....	5	15
	Oct. 9–Oct. 19 & .....	3	9
	Nov. 27–Nov. 28 & .....	3	9
	Dec. 4–Jan. 30 .....	3	9
White-fronted Geese:			
Reelfoot Zone .....	Nov. 13–Nov. 14 & .....	3	9
	Dec. 4–Jan. 30 .....	3	9
Rest of State .....	Nov. 27–Nov. 28 & .....	3	9
	Dec. 4–Jan. 30 .....	3	9
Brant .....	Same as for Canada and Cackling Geese .....	1	3
Light Geese .....	Same as for Canada and Cackling Geese .....	20	.....
Wisconsin:			
Ducks (17):			
North Zone .....	Sept. 25–Nov. 23 .....	6	18
South Zone .....	Oct. 2–Oct. 10 & .....	6	18
	Oct. 16–Dec. 5 .....	6	18
Open Water Zone .....	Oct. 16–Dec. 14 .....	6	18
Mergansers .....	Same as for Ducks .....	5	15
Coots .....	Same as for Ducks .....	15	45
Canada and Cackling Geese:			
North Zone .....	Sept. 1–Sept. 15 .....	5	15
	Sept. 16–Dec. 16 .....	3	9
South Zone .....	Sept. 1–Sept. 15 .....	5	15
	Sept. 16–Oct. 10 & .....	3	9
	Oct. 16–Dec. 5 & .....	3	9
	Dec. 20–Jan. 4 .....	5	15
Mississippi River Zone .....	Sept. 1–Sept. 15 .....	5	15
	Oct. 2–Oct. 10 & .....	3	9
	Oct. 16–Jan. 4 .....	3	9
White-fronted Geese:			
North Zone .....	Sept. 16–Dec. 16 .....	1	3
South Zone .....	Sept. 16–Oct. 10 & .....	1	3
	Oct. 16–Dec. 5 & .....	1	3
	Dec. 20–Jan. 4 .....	1	3
Mississippi River Zone .....	Oct. 2–Oct. 10 & .....	1	3
	Oct. 16–Jan. 4 .....	1	3
Brant .....	Same as for White-fronted Geese .....	1	3
Light Geese:			
North Zone .....	Sept. 1–Dec. 16 .....	20	-
South Zone .....	Sept. 1–Oct. 10 & .....	20	.....
	Oct. 16–Dec. 5 & .....	20	.....
	Dec. 20–Jan. 4 .....	20	.....
Mississippi River Zone .....	Sept. 1–Sept. 15 & .....	20	.....
	Oct. 2–Oct. 10 & .....	20	.....
	Oct. 16–Jan. 4 .....	20	.....

(1) In *Illinois*, the daily bag limit for scaup is 2 during the first 45 days in each of the 4 Zones.

(2) In *Indiana*, the daily bag limit for scaup is 2 from November 7 through December 12 and from December 26 through January 3 in the North Zone, from November 26 through January 9 in the Central Zone, and from December 10 through January 23 in the South Zone.

(3) In *Indiana*, the dark goose daily bag limit of 5 per day in the aggregate. The possession limit is three times the daily bag limit.

(4) In *Iowa*, the daily bag limit for scaup is 2 for the last 45 days of the season.

(5) In *Iowa*, the dark goose daily bag limit is 5 and may not include more than 2 Canada and cackling geese September 25 through October 31, or 3 Canada and cackling geese November 1 until the end of the season.

(6) In *Kentucky* and *Mississippi*, the daily bag limit for scaup is 2 from December 18 through January 31.

(7) In *Louisiana*, the daily bag limit for scaup is 2 from November 28 through 30 in the West Zones, and from December 4 through January 30 in the East Zone.

(8) In *Michigan*, the daily bag limit for scaup is 2 from September 25 through November 8 in the North Zone, from October 18 through November 28 and December 11 through 12 in the Middle Zone, and from October 25 through December 5 and January 1 through 2 in the South Zone.

(9) In *Michigan*, the dark goose daily bag limit is 5 and may not include more than 1 brant. Additionally, after September 30, the daily bag may not include more than 3 Canada and cackling geese.

(10) In *Minnesota*, the daily bag limit for scaup is 2 Statewide from October 15 through the remainder of the season.

(11) In *Minnesota*, the daily bag limit is 15 and the possession limit is 45 coots and gallinules in the aggregate.

(12) In *Missouri*, the daily bag limit for scaup is 2 from October 30 through December 13 in the North Zone, from November 6 through November 14 and November 20 through December 25 in the Middle Zone, and from November 25 through November 28 and December 7 through January 16 in the South Zone.

(13) In *Missouri*, Canada, cackling geese and brant will have aggregate daily bag and possession limits of 3 and 9, respectively.

(14) In *Ohio*, the daily bag limit for scaup is 2 on October 31 and from November 6 through December 19 in the Lake Erie Zone, from November 20 through January 2 in the North Zone, and from December 17 through January 30 in the South Zone.

(15) In *Ohio*, the dark goose daily bag limit may include no more than 1 brant.

(16) In *Tennessee*, the daily bag limit for scaup is 2 from December 17 through January 30.

(17) In *Wisconsin*, the daily bag limit for scaup is 2 from October 10 through November 23 in the North Zone, from October 22 through December 5 in the South Zone, and from October 31 through December 14 in the Open Water Zone.

**Central Flyway**

*Flyway-Wide Restrictions*

*Duck Limits:* The daily bag limit is 6 ducks, which may include no more than 5 mallards (2 female mallards), 1 pintail,

2 canvasbacks, 2 redheads, 1 scaup, and 3 wood ducks. The possession limit is three times the daily bag limit.

*Merganser Limits:* The daily bag limit is 5 mergansers and may include no more than 2 hooded mergansers. In

States that include mergansers in the duck bag limit, the daily limit is the same as the duck bag limit, of which only 2 may be hooded mergansers. The possession limit is three times the daily bag limit.

Area	Season dates	Limits	
		Bag	Possession
<b>Colorado:</b>			
<i>Ducks:</i>			
Southeast Zone .....	Oct. 28–Jan. 31 .....	6	18
Northeast Zone .....	Oct. 9–Nov. 28 & .....	6	18
	Dec. 18–Jan. 31 .....	6	18
Mountain/Foothills Zone .....	Oct. 2–Nov. 28 & .....	6	18
	Dec. 25–Jan. 31 .....	6	18
Coots .....	Same as for Ducks .....	15	45
Mergansers .....	Same as for Ducks .....	5	15
<i>Dark Geese:</i>			
Northern Front Range Unit .....	Nov. 1–Feb. 13 .....	5	15
South Park Unit .....	Oct. 2–Jan. 14 .....	5	15
San Luis Valley Unit .....	Oct. 2–Oct. 20 & .....	5	15
	Nov. 20–Feb. 13 .....	5	15
North Park Unit .....	Oct. 2–Jan. 14 .....	5	15
Rest of State in Central Flyway .....	Nov. 1–Feb. 13 .....	5	15
<i>Light Geese:</i>			
Northern Front Range Unit .....	Oct. 30–Feb. 13 .....	50	.....
South Park Unit .....	Oct. 30–Feb. 13 .....	50	.....
San Luis Valley Unit .....	Oct. 30–Feb. 13 .....	50	.....
North Park Unit .....	Oct. 30–Feb. 13 .....	50	.....
Rest of State in Central Flyway .....	Oct. 30–Feb. 13 .....	50	.....
<b>Kansas:</b>			
<i>Ducks:</i>			
High Plains .....	Oct. 9–Jan. 2 & .....	6	18
	Jan. 21–Jan. 30 .....	6	18
<i>Low Plains:</i>			
Early Zone .....	Oct. 9–Dec. 5 & .....	6	18
	Dec. 18–Jan. 2 .....	6	18
Late Zone .....	Oct. 30–Jan. 2 & .....	6	18
	Jan. 22–Jan. 30 .....	6	18
Southeast Zone .....	Nov. 6–Jan. 2 & .....	6	18
	Jan. 15–Jan. 30 .....	6	18
Mergansers .....	Same as for Ducks .....	5	15
Coots .....	Same as for Ducks .....	15	45
Dark Geese (1) .....	Oct. 30–Oct. 31 & .....	6	18
	Nov. 3–Feb. 13 .....	6	18
White-fronted Geese .....	Oct. 30–Jan. 2 & .....	2	6
	Jan. 22–Feb. 13 .....	2	6
Light Geese .....	Oct. 30–Oct. 31 & .....	50	.....
	Nov. 3–Feb. 13 .....	50	.....
<b>Montana:</b>			
<i>Ducks and Mergansers (2):</i>			
Zone 1 .....	Oct. 2–Jan. 6 .....	6	18
Zone 2 .....	Oct. 2–Oct. 10 & .....	6	18
	Oct. 23–Jan. 18 .....	6	18
Coots .....	Same as for Ducks .....	15	45
<i>Dark Geese:</i>			
Zone 1 .....	Oct. 2–Jan. 14 .....	5	15
Zone 2 .....	Oct. 2–Oct. 10 & .....	5	15
	Oct. 23–Jan. 26 .....	5	15
<i>Light Geese:</i>			
Zone 1 .....	Oct. 2–Jan. 14 & .....	20	60
Zone 2 .....	Same as for Dark Geese .....	20	60

Area	Season dates	Limits	
		Bag	Possession
<i>Nebraska:</i>			
Ducks (3):			
Zone 1 .....	Oct. 16–Dec. 28 .....	6	18
Zone 2:			
Low Plains .....	Oct. 9–Dec. 21 .....	6	18
High Plains .....	Oct. 9–Dec. 21 & .....	6	18
	Jan. 5–Jan. 26 .....	6	18
Zone 3: .....	Oct. 23–Jan. 4 .....	6	18
Zone 4 .....	Oct. 30–Jan. 11 .....	6	18
Mergansers .....	Same as for Ducks .....	5	15
Coots .....	Same as for Ducks .....	15	45
Canada and Cackling Geese:			
Niobrara Unit .....	Oct. 28–Feb. 9 .....	5	15
North Central Unit .....	Oct. 11–Jan. 23 .....	5	15
Platte River Unit .....	Oct. 28–Feb. 9 .....	5	15
White-fronted Geese .....	Oct. 9–Dec. 19 & .....	2	6
	Jan. 25–Feb. 9 .....	2	6
Light Geese .....	Oct. 9–Jan. 5 & .....	50	.....
	Jan. 25–Feb. 9 .....	50	.....
<i>New Mexico:</i>			
Ducks and Mergansers (4):			
North Zone .....	Oct. 9–Jan. 12 .....	6	18
South Zone .....	Oct. 28–Jan. 31 .....	6	18
Coots .....	Same as for Ducks .....	15	45
Dark Geese:			
Middle Rio Grande Valley Unit .....	Dec. 19–Jan. 31 .....	2	2
Rest of State .....	Oct. 17–Jan. 31 .....	5	15
Light Geese .....	Oct. 17–Jan. 31 .....	50	.....
<i>North Dakota:</i>			
Ducks (2):			
High Plains .....	Sept. 25–Dec. 5 & .....	6	18
	Dec. 11–Jan. 2 .....	6	18
Remainder of State .....	Sept. 25–Dec. 5 .....	6	18
Mergansers .....	Same as for Ducks .....	5	15
Coots .....	Same as for Ducks .....	15	45
Canada and Cackling Geese (5):			
Missouri River Zone .....	Sept. 25–Dec. 31 .....	5	15
Western ND Zone .....	Sept. 25–Dec. 23 .....	8	24
Rest of State .....	Sept. 25–Dec. 18 .....	8	24
White-fronted Geese .....	Sept. 25–Dec. 5 .....	3	9
Light Geese .....	Sept. 25–Dec. 31 .....	50	.....
<i>Oklahoma:</i>			
Ducks:			
High Plains .....	Oct. 9–Jan. 5 .....	6	18
Low Plains:			
Zone 1 .....	Nov. 13–Nov. 28 & .....	6	18
	Dec. 4–Jan. 30 .....	6	18
Zone 2 .....	Nov. 13–Nov. 28 & .....	6	18
	Dec. 4–Jan. 30 .....	6	18
Mergansers .....	Same as for Ducks .....	5	15
Coots .....	Same as for Ducks .....	15	45
Dark Geese (1) .....	Nov. 6–Nov. 28 & .....	8	24
	Dec. 4–Feb. 13 .....	8	24
White-fronted Geese .....	Nov. 6–Nov. 28 & .....	2	6
	Dec. 4–Feb. 6 .....	2	6
Light Geese .....	Nov. 6–Nov. 28 & .....	50	.....
	Dec. 4–Feb. 13 .....	50	.....
<i>South Dakota:</i>			
Ducks (2)(3):			
High Plains .....	Oct. 9–Jan. 13 .....	6	18
Low Plains:			
North Zone .....	Sept. 25–Dec. 7 .....	6	18
Middle Zone .....	Sept. 25–Dec. 7 .....	6	18
South Zone .....	Oct. 23–Jan. 4 .....	6	18
Mergansers .....	Same as for Ducks .....	5	15
Coots .....	Same as for Ducks .....	15	45
Canada and Cackling Geese:			
Unit 1 .....	Oct. 1–Dec. 16 .....	8	24
Unit 2 .....	Nov. 1–Feb. 13 .....	4	12
Unit 3 .....	Oct. 16–Dec. 19 & .....	4	12
	Jan. 8–Jan. 16 .....	4	12
White-fronted Geese .....	Sept. 25–Dec. 7 .....	3	9

Area	Season dates	Limits	
		Bag	Possession
Light Geese	Sept. 25–Jan. 7	50	.....
<i>Texas:</i>			
Ducks (6):			
High Plains	Oct. 30–Oct. 31 & Nov. 5–Jan. 30	6 6	18 18
Low Plains:			
North Zone	Nov. 13–Nov. 28 & Dec. 4–Jan. 30	6 6	18 18
South Zone	Nov. 6–Nov. 28 & Dec. 11–Jan. 30	6 6	18 18
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
<i>Canada and Cackling Geese and Brant (7):</i>			
East Tier:			
South Zone	Nov. 6–Jan. 30	5	15
North Zone	Nov. 6–Jan. 30	5	15
West Tier	Nov. 13–Feb. 13	5	15
<i>White-fronted Geese (7):</i>			
East Tier:			
South Zone	Nov. 6–Jan. 30	2	6
North Zone	Nov. 6–Jan. 30	2	6
West Tier	Nov. 13–Feb. 13	2	6
<i>Light Geese:</i>			
East Tier:			
South Zone	Nov. 6–Jan. 30	10	.....
North Zone	Nov. 6–Jan. 30	10	.....
West Tier	Nov. 13–Feb. 13	10	.....
<i>Wyoming:</i>			
Ducks (2)(8):			
Zone C1	Oct. 2–Oct. 17 & Nov. 6–Jan. 25	6 6	18 18
Zone C2	Sept. 25–Dec. 5 & Dec. 18–Jan. 11	6 6	18 18
Zone C3	Same as Zone C2	6	18
Mergansers	Same as for Ducks	5	15
Coots	Same as for Ducks	15	45
<i>Dark Geese:</i>			
Zone G1A (8)	Oct. 2–Oct. 13 & Nov. 13–Feb. 13	2 4	6 12
Zone G1	Oct. 2–Oct. 10 & Nov. 6–Nov. 28 & Dec. 3–Feb. 13	5 5 5	15 15 15
Zone G2	Sept. 25–Dec. 5 & Dec. 18–Jan. 19	5 5	15 15
Zone G3	Same as Zone G2	.....	.....
Zone G4	Same as Zone G1	.....	.....
Light Geese	Oct. 2–Jan. 2 & Feb. 2–Feb. 13	20 20	60 60

(1) In *Kansas* and *Oklahoma*, dark geese include Canada, cackling geese, brant, and all other geese except white-fronted geese and light geese.

(2) In *Montana*, during the first 9 days of the duck season, and in *North Dakota*, *South Dakota* (*Tier I license*), and *Wyoming*, during the first 16 days of the duck season, the daily bag and possession limit may include 2 and 6 additional blue-winged teal, respectively.

(3) For hunters possessing a Tier II license the daily bag limit is 3 ducks or mergansers of any species in the aggregate, and the possession limit is 9.

(4) In *New Mexico*, Mexican-like ducks are included in the aggregate with mallards.

(5) In *North Dakota*, see State regulations for additional shooting hour restrictions.

(6) In *Texas*, the daily bag limit is 6 ducks, which may include no more than 5 mallards (only 2 of which may be females), 2 redheads, 3 wood ducks, 3 scaup, 2 canvasbacks, 1 pintail, and 1 dusky duck (mottled duck, Mexican-like duck, black duck and their hybrids). The season for dusky ducks is closed the first 5 days of the season in all zones. The possession limit is three times the daily bag limit.

(7) In *Texas*, in the West Goose Zone, the daily bag limit for dark geese is 5 in the aggregate and may include no more than 2 white-fronted geese. Possession limits are three times the daily bag limit.

(8) See State regulations for additional restrictions.

**Pacific Flyway**

*Flyway-Wide Restrictions*

*Duck and Merganser Limits:* The daily bag limit of 7 ducks (including mergansers) may include no more than

2 female mallards, 1 pintail, 2 redheads, 2 scaup, and 2 canvasbacks. The possession limit is three times the daily bag limit.

*Coot and Gallinule Limits:* Daily bag and possession limits are in the aggregate for the two groups.

Area	Season dates	Limits	
		Bag	Possession
<i>Arizona:</i>			
Ducks (1): .....	.....	7	21
North Zone:			
Scaup .....	Oct. 16–Jan. 9 .....	2	6
Other Ducks .....	Oct. 1–Jan. 9 .....	7	21
South Zone:			
Scaup .....	Nov. 7–Jan. 31 .....	2	6
Other Ducks .....	Oct. 23–Jan. 31 .....	7	21
Coots and Gallinules .....	Same as for Other Ducks .....	25	75
Dark Geese:			
North Zone .....	Oct. 1–Jan. 9 .....	4	12
South Zone .....	Oct. 23–Jan. 31 .....	4	12
Light Geese .....	Same as for Dark Geese .....	10	30
<i>California:</i>			
Ducks: .....	.....	7	21
Northeastern Zone:			
Scaup .....	Oct. 2–Nov. 28 & .....	2	6
Other Ducks .....	Dec. 16–Jan. 12 .....	2	6
Other Ducks .....	Oct. 2–Jan. 12 .....	7	21
Colorado River Zone:			
Scaup .....	Nov. 7–Jan. 31 .....	2	6
Other Ducks .....	Oct. 23–Jan. 31 .....	7	21
Southern Zone:			
Scaup .....	Nov. 7–Jan. 31 .....	2	6
Other Ducks .....	Oct. 23–Jan. 31 .....	7	21
Southern San Joaquin Valley Zone:			
Scaup .....	Nov. 7–Jan. 31 .....	2	6
Other Ducks .....	Oct. 23–Jan. 31 .....	7	21
Balance of State Zone:			
Scaup .....	Nov. 7–Jan. 31 .....	2	6
Other Ducks .....	Oct. 23–Jan. 31 .....	7	21
Coots and Gallinule .....	Same as for Other Ducks .....	25	75
Canada and Cackling Geese (2)(3):			
Northeastern Zone (4) .....	Oct. 2–Jan. 9 .....	10	30
Klamath Basin Special Management Area .....	Oct. 2–Jan. 9 .....	10	30
Colorado River Zone .....	Oct. 23–Jan. 31 .....	4	12
Southern Zone .....	Oct. 23–Jan. 31 .....	3	9
Balance of State Zone .....	Oct. 2–Oct. 6 & .....	10	30
North Coast Special Management Area .....	Oct. 23–Jan. 30 .....	10	30
North Coast Special Management Area .....	Nov. 8–Jan. 31 & .....	10	30
North Coast Special Management Area .....	Feb. 19–Mar. 10 .....	10	30
White-fronted Geese (2):			
Northeastern Zone .....	Oct. 2–Nov. 28 & .....	10	30
Northeastern Zone .....	Jan. 1–Jan. 14 & .....	10	30
Northeastern Zone .....	Feb. 6–Mar. 10 .....	10	30
Klamath Basin Special Management Area .....	Oct. 2–Jan. 14 .....	10	30
Colorado River Zone .....	Oct. 23–Jan. 31 .....	4	12
Southern Zone .....	Oct. 23–Jan. 31 .....	3	9
Balance of State Zone .....	Oct. 23–Jan. 30 & .....	10	30
Sacramento Valley Special Management Area .....	Feb. 19–Feb. 23 .....	10	30
Sacramento Valley Special Management Area .....	Oct. 23–Dec. 21 .....	3	9
Light Geese:			
Northeastern Zone .....	Oct. 2–Nov. 28 & .....	20	60
Northeastern Zone .....	Jan. 1–Jan. 14 & .....	20	60
Northeastern Zone .....	Feb. 6–Mar. 10 .....	20	60
Klamath Basin Special Management Area .....	Oct. 2–Jan. 14 .....	20	60
Colorado River Zone .....	Oct. 23–Jan. 31 .....	20	60
Southern Zone .....	Oct. 23–Jan. 31 .....	20	60
Imperial County Special Management Area .....	Nov. 6–Feb. 4 & .....	20	60
Imperial County Special Management Area .....	Feb. 7–Feb. 11 & .....	20	60
Imperial County Special Management Area .....	Feb. 14–Feb. 22 .....	20	60
Balance of State Zone .....	Oct. 23–Jan. 30 & .....	20	60
Balance of State Zone .....	Feb. 19–Feb. 23 .....	20	60
Brant:			
Northern Zone .....	Nov. 8–Dec. 14 .....	2	6
Balance of State Zone .....	Nov. 9–Dec. 15 .....	2	6
<i>Colorado:</i>			
Ducks: .....	.....	7	21
East Zone:			
Scaup .....	Oct. 2–Dec. 26 .....	2	6
Other Ducks .....	Oct. 2–Jan. 14 .....	7	21

Area	Season dates	Limits	
		Bag	Possession
West Zone:			
Scaup .....	Oct. 2–Oct. 19 & .....	2	6
	Nov. 6–Jan. 12 .....	2	6
Other Ducks .....	Oct. 2–Oct. 19 & .....	7	21
	Nov. 6–Jan. 31 .....	7	21
Coots .....	Same as for Other Ducks .....	25	75
Dark Geese:			
East Zone .....	Oct. 2–Jan. 5 .....	4	12
West Zone .....	Oct. 2–Oct. 10 & .....	4	12
	Nov. 6–Jan. 31 .....	4	12
Light Geese .....	Same as for Dark Geese .....	10	30
Idaho:			
Ducks:		7	21
Zone 1:			
Scaup .....	Oct. 2–Dec. 26 .....	2	6
Other Ducks .....	Oct. 2–Jan. 14 .....	7	21
Zone 2:			
Scaup .....	Oct. 2–Dec. 26 .....	2	6
Other Ducks .....	Oct. 2–Jan. 14 .....	7	21
Zone 3:			
Scaup .....	Nov. 4–Jan. 28 .....	2	6
Other Ducks .....	Oct. 16–Jan. 28 .....	7	21
Zone 4:			
Scaup .....	Oct. 2–Dec. 26 .....	2	6
Other Ducks .....	Oct. 2–Jan. 14 .....	7	21
Coots .....	Same as for Other Ducks .....	25	75
Canada, Cackling Geese, and Brant (5):			
Zone 1 .....	Oct. 2–Jan. 14 .....	4	12
Zone 2 .....	Oct. 19–Jan. 31 .....	4	12
Zone 3 .....	Oct. 16–Jan. 28 .....	4	12
Zone 4 .....	Oct. 2–Dec. 30 .....	4	12
Zone 5 .....	Oct. 2–Jan. 14 .....	4	12
White-fronted Geese:			
Zone 1 .....	Oct. 2–Jan. 14 .....	10	30
Zone 2 .....	Oct. 2–Jan. 14 .....	10	30
Zone 3 .....	Oct. 19–Jan. 31 .....	10	30
Zone 4 .....	Nov. 1–Feb. 13 .....	10	30
Zone 5 .....	Oct. 2–Jan. 14 .....	10	30
Light Geese:			
Zone 1 .....	Oct. 2–Jan. 14 .....	20	60
Zone 2 .....	Oct. 2–Dec. 11 & .....	20	60
	Feb. 5–Mar. 10 .....	20	60
Zone 3 .....	Nov. 26–Mar. 10 .....	20	60
Zone 4 .....	Oct. 19–Jan. 31 .....	20	60
Zone 5 .....	Oct. 2–Jan. 14 .....	20	60
Zone 6 .....	Oct. 2–Jan. 14 .....	20	60
Montana:			
Ducks:		7	21
Scaup .....	Oct. 2–Dec. 26 .....	2	6
Other Ducks .....	Oct. 2–Jan. 14 .....	7	21
Coots .....	Same as for Other Ducks .....	25	25
Dark Geese (6) .....	Oct. 2–Jan. 14 .....	4	12
Light Geese (6) .....	Same as for Dark Geese .....	20	60
Nevada:			
Ducks:		7	21
Northeast Zone:			
Scaup .....	Sept. 25–Oct. 13 & .....	2	6
	Oct. 23–Dec. 28 .....	2	6
Other Ducks .....	Sept. 25–Oct. 13 & .....	7	21
	Oct. 23–Jan. 16 .....	7	21
Northwest Zone:			
Scaup .....	Nov. 4–Jan. 2 & .....	2	6
	Jan. 5–Jan. 30 .....	2	6
Other Ducks .....	Oct. 16–Jan. 2 & .....	7	21
	Jan. 5–Jan. 30 .....	7	21
South Zone:			
Scaup .....	Nov. 6–Jan. 30 .....	2	6
Other Ducks .....	Oct. 16–Oct. 24 & .....	7	21
	Oct. 27–Jan. 30 .....	7	21
Moapa Valley Special Management Area (7):			
Scaup .....	Nov. 6–Jan. 30 .....	2	6
Other Ducks .....	Oct. 30–Jan. 30 .....	7	21



Area	Season dates	Limits	
		Bag	Possession
Coots and Gallinule .....	Same as for Other Ducks .....	25	75
Canada, Cackling Geese, and Brant (5):			
Northeast Zone .....	Same as for Other Ducks .....	4	12
Northwest Zone .....	Same as for Other Ducks .....	4	12
South Zone .....	Same as for Other Ducks .....	4	12
Moapa Valley Special Management Area (7):	Same as for Other Ducks .....	4	12
White-fronted Geese:			
Northeast Zone .....	Same as for Canada and Cackling Geese and Brant	10	30
Northwest Zone .....	Same as for Canada and Cackling Geese and Brant	10	30
South Zone .....	Same as for Canada and Cackling Geese and Brant	10	30
Moapa Valley Special Management Area (7):	Same as for Canada and Cackling Geese and Brant	10	30
Light Geese (8):			
Northeast Zone .....	Oct. 23–Jan. 16 & .....	20	60
	Feb. 19–Mar. 9 .....	20	60
Northwest Zone .....	Nov. 5–Jan. 2 & .....	20	60
	Jan. 5–Jan. 30 & .....	20	60
	Feb. 19–Mar. 9 .....	20	60
South Zone .....	Oct. 16–Oct. 24 & .....	20	60
	Oct. 27–Jan. 30 .....	20	60
Moapa Valley Special Management Area (7):	Oct. 30–Jan. 30 .....	20	60
<i>New Mexico:</i>			
Ducks: .....	.....	7	21
Scaup .....	Oct. 19–Jan. 12 .....	2	6
Other Ducks .....	Oct. 19–Jan. 31 .....	7	21
Coots and Gallinules .....	Same as for Other Ducks .....	25	75
Canada, Cackling Geese, and Brant (5):			
North Zone .....	Sept. 25–Oct. 10 & .....	4	12
	Nov. 2–Jan. 31 .....	4	12
South Zone .....	Oct. 17–Jan. 31 .....	4	12
White-fronted Geese:			
North Zone .....	Same as for Canada and Cackling Geese and Brant	10	30
South Zone .....	Same as for Canada and Cackling Geese and Brant	10	30
Light Geese:			
North Zone .....	Same as for Canada and Cackling Geese and Brant	20	60
South Zone .....	Same as for Canada and Cackling Geese and Brant	20	60
<i>Oregon:</i>			
Ducks: .....	.....	7	21
Zone 1:			
Columbia Basin Unit:			
Scaup .....	Nov. 6–Jan. 30 .....	2	6
Other Ducks .....	Oct. 16–Oct. 31 & .....	7	21
	Nov. 4–Jan. 30 .....	7	21
Rest of Zone 1 .....	Same as Columbia Basin Unit .....	.....	.....
Zone 2:			
Scaup .....	Oct. 9–Nov. 28 & .....	2	6
	Dec. 2–Jan. 5 .....	2	6
Other Ducks .....	Oct. 9–Nov. 28 & .....	7	21
	Dec. 2–Jan. 23 .....	7	21
Coots .....	Same as for Other Ducks .....	25	75
Canada and Cackling Geese:			
Northwest Permit Zone (9)(10) .....	Oct. 23–Oct. 31 & .....	4	12
	Nov. 20–Jan. 11 & .....	4	12
	Feb. 5–Mar. 10 .....	4	12
Tillamook County Management Area .....	Closed .....	.....	.....
Southwest Zone .....	Oct. 16–Oct. 31 & .....	4	12
	Nov. 9–Jan. 30 .....	4	12
South Coast Zone .....	Oct. 2–Dec. 5 & .....	6	18
	Dec. 18–Jan. 5 & .....	6	18
	Feb. 19–Mar. 10 .....	6	18
Eastern Zone .....	Oct. 9–Nov. 28 & .....	4	12
	Dec. 14–Jan. 30 .....	4	12
Mid-Columbia Zone .....	Oct. 16–Oct. 31 & .....	4	12
	Nov. 9–Jan. 30 .....	4	12
White-fronted Geese:			
Northwest Permit Zone (9) .....	Same as for Canada, and Cackling, Geese .....	10	30
Tillamook County Management Area .....	Closed .....	.....	.....
Southwest Zone .....	Same as for Canada and Cackling Geese .....	10	30
South Coast Zone .....	Same as for Canada and Cackling Geese .....	10	30
Eastern Zone (11) .....	Oct. 9–Nov. 28 & .....	10	30
	Jan. 16–Mar. 10 .....	10	30
Mid-Columbia Zone .....	Nov. 9–Jan. 30 & .....	10	30
	Feb. 5–Feb. 26 .....	10	30

Area	Season dates	Limits	
		Bag	Possession
Light Geese:			
Northwest Permit Zone (9) .....	Same as for Canada and Cackling Geese .....	20	60
Tillamook County Management Area .....	Closed .....	.....	.....
Southwest Zone .....	Same as for Canada and Cackling Geese .....	20	60
South Coast Zone .....	Same as for Canada and Cackling Geese .....	20	60
Eastern Zone .....	Oct. 9–Nov. 28 & .....	20	60
	Jan. 16–Mar. 10 .....	20	60
Mid-Columbia Zone .....	Nov. 9–Jan. 30 & .....	20	60
	Feb. 5–Feb. 26 .....	20	60
Brant .....	Nov. 27–Dec. 12 .....	2	6
<i>Utah:</i>			
Ducks: .....	.....	7	21
Northern Zone 1:			
Scaup .....	Oct. 2–Dec. 26 .....	2	6
Other Ducks .....	Oct. 2–Jan. 15 .....	7	21
Southern Zone 2:			
Scaup .....	Nov. 5–Jan. 29 .....	2	6
Other Ducks .....	Oct. 16–Jan. 29 .....	7	21
Coots .....	Same as for Other Ducks .....	25	75
Canada, Cackling Geese, and Brant (5):			
East Box Elder County Zone .....	Oct. 2–Jan. 15 .....	4	12
Wasatch Front Zone .....	Oct. 2–Oct. 14 & .....	4	12
	Nov. 6–Feb. 6 .....	4	12
Northern Zone .....	Oct. 2–Oct. 14 & .....	4	12
	Oct. 30–Jan. 30 .....	4	12
Southern Zone .....	Oct. 16–Jan. 29 .....	4	12
White-fronted Geese:			
East Box Elder County Zone .....	Same as for Canada and Cackling Geese and Brant	10	30
Wasatch Front Zone .....	Same as for Canada and Cackling Geese and Brant	10	30
Northern Zone .....	Same as for Canada and Cackling Geese and Brant	10	30
Southern Zone .....	Same as for Canada and Cackling Geese and Brant	10	30
Light Geese .....	Oct. 25–Dec. 15 & .....	20	60
	Jan. 15–Mar. 10 .....	20	60
<i>Washington:</i>			
Ducks: .....	.....	7	21
East and West Zones (12):			
Scaup .....	Nov. 6–Jan. 30 .....	2	6
Other Ducks .....	Oct. 16–Oct 24 & .....	7	21
	Oct. 27–Jan. 30 .....	7	21
Coots .....	Same as for Other Ducks .....	25	75
Canada and Cackling Geese:			
Area 1 (13) .....	Oct. 16–Nov. 28 & .....	4	12
	Dec. 11–Jan. 30 .....	4	12
Area 2 Inland (14)(15) .....	Oct. 16–Oct. 31 & .....	4	12
	Nov. 24–Jan. 16 & .....	4	12
	Feb. 12–Mar. 9 .....	4	12
Area 2 Coast (14)(15) .....	Oct. 16–Dec. 5 & .....	4	12
	Dec. 22–Jan. 23 & .....	4	12
	Feb. 12–Feb. 23 .....	4	12
Area 3 (13) .....	Oct. 16–Oct. 28 & .....	4	12
	Nov. 6–Jan. 30 .....	4	12
Area 4 (13) .....	Oct. 16–Oct. 31 & .....	4	12
	Nov. 3 only & .....	4	12
	Nov. 6–Jan. 30 .....	4	12
Area 5 (13) .....	Oct. 16–Nov. 1 & .....	4	12
	Nov. 6–Jan. 30 .....	4	12
White-fronted Geese:			
Area 1 (13) .....	Same as for Canada and Cackling Geese .....	10	30
Area 2 Inland (14) .....	Same as for Canada and Cackling Geese .....	10	30
Area 2 Coast (14) .....	Same as for Canada and Cackling Geese .....	10	30
Area 3 (13) .....	Same as for Canada and Cackling Geese .....	10	30
Area 4 (13) .....	Same as for Canada and Cackling Geese .....	10	30
Area 5 (13) .....	Same as for Canada and Cackling Geese .....	10	30
Light Geese (16):			
Area 1 (13) .....	Oct. 16–Nov. 28 & .....	20	60
	Dec. 11–Jan. 30 & .....	20	60
	Feb. 12–Feb. 22 .....	20	60
Area 2 Inland (14) .....	Same as for Canada and Cackling Geese .....	20	60
Area 2 Coast (14) .....	Same as for Canada and Cackling Geese .....	20	60
Area 3 (13) .....	Same as for Canada and Cackling Geese .....	20	60
Area 4 (13) .....	Nov. 6–Jan. 30 & .....	20	60
	Feb. 12–Mar. 2 .....	20	60

Area	Season dates	Limits	
		Bag	Possession
Area 5 (13)	Oct. 16–Nov. 1 & Nov. 6–Jan. 30	20	60
Brant (17):		20	60
Coastal Zone	Jan. 8–Jan. 30	2	6
Puget Sound Zone	Jan. 15–Jan. 30	2	6
Wyoming:			
Ducks:		7	21
Snake River Zone:			
Scaup	Sept. 25–Dec. 19	2	6
Other Ducks	Sept. 25–Jan. 7	7	21
Balance of State Zone:			
Scaup	Sept. 25–Dec. 19	2	6
Other Ducks	Sept. 25–Jan. 7	7	21
Coots	Same as for Other Ducks	15	45
Dark Geese	Sept. 25–Dec. 30	4	12
Light Geese	Sept. 25–Dec. 30	10	30

(1) In *Arizona*, the daily bag limit may include no more than either 2 female mallards or 2 Mexican-like ducks, or 1 of each; and no more than 6 female mallards and Mexican-like ducks, in the aggregate, may be in possession. For black-bellied whistling ducks, the daily bag limit is 1 and the possession limit is 3.

(2) In *California*, the daily bag and possession limits for Canada geese, cackling geese, and white-fronted geese are in the aggregate.

(3) In *California*, small Canada geese are cackling and Aleutian Canada geese, and large Canada geese are western and lesser Canada geese.

(4) In *California*, in the Northeastern Zone, the daily bag limit may include no more than 2 large Canada geese.

(5) The daily bag and possession limits for Canada and cackling geese and brant are in the aggregate.

(6) In *Montana*, check State regulations for special seasons and exceptions.

(7) In *Nevada*, youth 17 years of age or younger are allowed to hunt on October 23 on the Moapa Valley portion of Overton Wildlife Management Area (WMA). Youth must be accompanied by an adult who is 18 years of age or older.

(8) In *Nevada*, there is no open season on light geese in Ruby Valley within Elko and White Pine Counties. In addition, the season is closed in Mason Valley and Scripps WMAs and Washoe Lake State Park from February 19 to March 9.

(9) In *Oregon*, in the Northwest Permit Zone, see State regulations for specific dates, times, and conditions of permit hunts and closures.

(10) In *Oregon*, in the Northwest Permit Zone, the season for dusky Canada geese is closed.

(11) In *Oregon*, in Lake County, the daily bag and possession limits for white-fronted geese are 1 and 3, respectively.

(12) In *Washington*, the daily bag limit in the West Zone may include no more than 2 scoters, 2 long-tailed ducks, and 2 goldeneyes, with the possession limit three times the daily bag limit. The daily bag and possession limit, and the season limit, for harlequins is 1.

(13) In *Washington*, in Areas 1, 3, and 5, hunting is allowed each day. In Area 4, hunting is allowed only on Saturdays, Sundays, Wednesdays, and certain holidays, except hunting is allowed each day only for light geese during the February and March portion of the season. See State regulations for details, including shooting hours.

(14) In *Washington*, in Areas 2 Inland and 2 Coast, see State regulations for specific dates, times, and conditions of permit hunts and closures.

(15) In *Washington*, in Areas 2 Inland and 2 Coast, the season for dusky Canada geese is closed.

(16) In *Washington*, the daily bag limit for light geese is 10 on or before January 30.

(17) In *Washington*, brant may be hunted in Clallam, Pacific, Skagit, and Watcom Counties only; see State regulations for specific dates.

(f) *Youth and Veteran-Active Military Personnel Waterfowl Hunting Days.*

The following seasons are open only to youth and veteran-active military personnel, except where noted. Youth must be accompanied into the field by an adult 18 years of age or older. This adult cannot duck hunt but may participate in other open seasons.

*Limits:* Bag limits may include ducks, geese, swans, mergansers, coots, and gallinules. The bag and possession limits are the same as those allowed in the regular season except in States that are allowed a daily bag limit of 1 or 2

scaup during different portions of the season, in which case the daily bag limit is 2 scaup per day and the possession limit is 4 scaup. Flyway species and area restrictions remain in effect.

*Definitions*

*Youth:* States may use their established definition of age for youth hunters. However, youth hunters may not be older than 17 years of age. Youth hunters 16 years of age and older must possess a Federal Migratory Bird Hunting and Conservation Stamp (also known as Federal Duck Stamp). Swans

may only be taken by participants possessing applicable swan permits.

*Veteran-Active Military Personnel:* Veterans (as defined in section 101 of title 38, U.S. Code) and members of the Armed Forces on active duty, including members of the National Guard and Reserves on active duty (other than for training), may participate. All hunters must possess a Federal Migratory Bird Hunting and Conservation Stamp (also known as Federal Duck Stamp). Swans may only be taken by participants possessing applicable swan permits.

Area	Species	Season dates
<b>ATLANTIC FLYWAY</b>		
Connecticut (1)	Ducks, geese, mergansers, and coots	Oct. 2 & Nov. 6.
Delaware (1)	Ducks, geese, brant, mergansers, and coots	Oct. 16 & Feb. 5.
Florida	Ducks, geese, mergansers, coots, and gallinules	
Youth		Nov. 13 & Feb. 12.
Veteran-Active Military Personnel		Feb. 5 & 6.
Georgia	Ducks, geese, mergansers, coots, and gallinules	Nov. 13 & 14.
Maine (1):	Ducks, geese, mergansers, and coots	
North Zone		Sept. 18 & Dec. 11.
South Zone		Sept. 25 & Oct. 16.

Area	Species	Season dates
Coastal Zone .....	.....	Sept. 25 & Oct. 23.
Maryland (2)(3) .....	Ducks, sea ducks, Canada and cackling geese, light geese, brant, and coots.	Nov. 6 & Feb. 5.
Massachusetts: .....	Ducks, geese, mergansers, and coots .....	.....
Youth Hunters .....	.....	Sept. 25 & Oct. 9.
Veteran-Active Military Personnel .....	.....	Sept. 25 & Oct. 9.
New Hampshire (1) .....	Ducks, geese, mergansers, and coots .....	Sept. 25 & 26.
New Jersey: .....	Ducks, geese, mergansers, coots, and gallinules .....	.....
Youth .....	.....	.....
North Zone .....	.....	Oct. 9 & Feb. 5.
South Zone .....	.....	Oct. 16 & Feb. 5.
Coastal Zone .....	.....	Oct. 30 & Feb. 5.
Veteran-Active Military Personnel .....	.....	Nov. 6 & Feb. 5.
New York: .....	Ducks, Canada and cackling geese, brant, mergansers, coots .....	.....
Youth .....	.....	.....
Long Island Zone .....	.....	Nov. 6 & 7.
Lake Champlain Zone .....	.....	Sept. 25 & 26.
Northeastern Zone .....	.....	Sept. 18 & 19.
Southeastern Zone .....	.....	Sept. 25 & 26.
Western Zone .....	.....	Oct. 2 & 3.
Veteran-Active Military Personnel .....	.....	.....
Long Island Zone .....	.....	Nov. 13 & 14.
Northeastern Zone .....	.....	Sept. 18 & 19.
Southeastern Zone .....	.....	Oct. 9 & 10.
Western Zone .....	.....	Nov. 11 & 13.
North Carolina (4)(5) .....	Ducks, geese, brant, tundra swans, mergansers, and coots .....	Feb. 5 & 12.
Pennsylvania (6): .....	Ducks, Canada and cackling geese, brant, mergansers, coots, and gallinules.	.....
Youth .....	.....	.....
North Zone .....	.....	Sept. 25 & Nov. 6.
South Zone .....	.....	Sept. 25 & Nov. 13.
Northwest Zone .....	.....	Sept. 25 & Dec. 18.
Lake Erie Zone .....	.....	Sept. 25 & Oct. 23.
Veteran-Active Military Personnel .....	.....	.....
North Zone .....	.....	Jan. 15.
South Zone .....	.....	Jan. 29.
Northwest Zone .....	.....	Jan. 15.
Lake Erie Zone .....	.....	Jan. 15.
Rhode Island (1) .....	Ducks, sea ducks, geese, mergansers, and coots .....	Oct. 30 & 31.
South Carolina .....	Ducks, geese, mergansers, and coots .....	Feb. 5 & 12.
Vermont (1) .....	Ducks, geese, mergansers, and coots .....	Sept. 25 & 26.
Virginia (5) .....	Ducks, Canada and cackling geese, tundra swans, mergansers, and coots ..	Oct. 23 & Feb. 5.
West Virginia (1) .....	Ducks, geese, mergansers, coots, and gallinules .....	Sept. 18 & Nov. 6.

MISSISSIPPI FLYWAY

Alabama .....	Ducks, geese, mergansers, coots, and gallinules .....	Nov. 20 & Feb. 5.
Arkansas .....	Ducks, geese, mergansers, coots, and gallinules .....	Dec. 4 & Feb. 5.
Illinois (1): .....	Ducks, geese, mergansers, coots, and gallinules .....	.....
North Zone .....	.....	Oct. 16 & 17.
Central Zone .....	.....	Oct. 23 & 24.
South Central Zone .....	.....	Nov. 6 & 7.
South Zone .....	.....	Nov. 13 & 14.
Indiana: .....	Ducks, geese, mergansers, and coots .....	.....
North Zone .....	.....	Oct. 16 & 17.
Central Zone .....	.....	Oct. 23 & 24.
South Zone .....	.....	Oct. 30 & Oct. 31.
Iowa (1): .....	Ducks, mergansers, coots, and gallinules .....	.....
North Zone .....	.....	Sept. 25 & 26.
Central Zone .....	.....	Oct. 2 & 3.
South Zone .....	.....	Oct. 9 & 10.
Kentucky (1): .....	Ducks, geese, mergansers, coots, and gallinules .....	.....
West Zone .....	.....	Feb. 5 & 6.
East Zone .....	.....	Nov. 6 & 7.
Louisiana: .....	Ducks, geese, mergansers, coots, and gallinules .....	.....
East Zone .....	.....	Nov. 13 & Feb. 5.
West Zone .....	.....	Nov. 6 & 7.
Michigan .....	Ducks, geese, mergansers, coots, and gallinules .....	Sept. 18 & 19.
Minnesota (1) .....	Ducks, geese, mergansers, coots, and gallinules .....	Sept. 11 & 12.
Mississippi .....	Ducks, geese, mergansers, coots, and gallinules .....	Feb. 5 & Feb. 6.
Missouri (1): .....	Ducks, geese, mergansers, coots, and gallinules .....	.....
North Zone .....	.....	Oct. 23 & 24.
Middle Zone .....	.....	Oct. 23 & 24.
South Zone .....	.....	Nov. 20 & 21.

Area	Species	Season dates
<i>Ohio</i> :	Ducks, geese, mergansers, coots, and gallinules	Oct. 2 & 3.
<i>Tennessee</i> :		
Youth	Ducks, geese, mergansers, coots, and gallinules	Feb. 5 & 12.
Veteran-Active Military Personnel	Ducks, geese, mergansers, and coots	Feb. 6 & 13.
<i>Wisconsin</i> (1)	Ducks, geese, mergansers, coots, and gallinules	Sept. 18 & 19.

## CENTRAL FLYWAY

<i>Colorado</i> :	Ducks, dark geese, mergansers, and coots	
Mountain/Foothills Zone		Sept. 25 & 26.
Northeast Zone		Oct. 2 & 3.
Southeast Zone		Oct. 23 & 24.
<i>Kansas</i> (7):	Ducks, geese, mergansers, and coots	
High Plains		Oct. 2 & 3.
Low Plains:		
Early Zone		Oct. 2 & 3.
Late Zone		Oct. 23 & 24.
Southeast Zone		Oct. 30 & 31.
<i>Montana</i> (1)	Ducks, geese, mergansers, and coots	Sept. 25 & 26.
<i>Nebraska</i> (1)(8):	Ducks, geese, mergansers, and coots	
Zone 1		Oct. 9 & 10.
Zone 2		Oct. 2 & 3.
Zone 3		Oct. 16 & 17.
Zone 4		Oct. 23 & 24.
<i>New Mexico</i> (1):	Ducks, mergansers, coots, and gallinules	
North Zone		Sept. 25 & 26.
South Zone		Oct. 2 & 3.
<i>North Dakota</i>	Ducks, geese, mergansers, and coots	Sept. 18 & 19.
<i>Oklahoma</i> :	Ducks, geese, mergansers, and coots	
High Plains		Oct. 2 & Feb. 5.
Low Plains:		
Zone 1		Nov. 6 & Feb. 5.
Zone 2		Nov. 6 & Feb. 5.
<i>South Dakota</i> (1)(8)	Ducks, Canada and cackling geese, mergansers, and coots	Sept. 11 & 12.
<i>Texas</i> (1):	Ducks, geese, mergansers, coots, and gallinules	
High Plains		Oct. 23 & 24.
Low Plains:		
North Zone		Nov. 6 & 7.
South Zone		Oct. 30 & Oct. 31.
<i>Wyoming</i> :	Ducks, geese, mergansers, and coots	
Zone C1		Sept. 25 & 26.
Zone C2		Sept. 18 & 19.
Zone C3		Sept. 18 & 19.

## PACIFIC FLYWAY

<i>Arizona</i> (1):	Ducks, geese, mergansers, coots, and gallinules	
North Zone		Sept. 25 & 26.
South Zone		Feb. 5 & 6.
<i>California</i> :		
Youth	Ducks, geese, brant, mergansers, coots, and gallinules	
Northeastern Zone		Sept. 18 & 19.
Colorado River Zone		Feb. 5 & 6.
Southern Zone		Feb. 5 & 6.
Southern San Joaquin Valley Zone.		Feb. 5 & 6.
Balance of State Zone		Feb. 5 & 6.
Veteran-Active Military Personnel	Ducks, brant, mergansers, coots, and gallinules	
Northeastern Zone		Jan. 15 & 16.
Southern Zone		Feb. 12 & 13.
Southern San Joaquin Valley Zone.		Feb. 12 & 13.
Balance of State Zone		Feb. 12 & 13.
<i>Colorado</i> :	Ducks, geese, mergansers, and coots	
East Zone		Sept. 25 & 26.
West Zone		Oct. 23 & 24.
<i>Idaho</i>	Ducks, geese, mergansers, and coots	Sept. 25 & 26.
<i>Montana</i> (1)	Ducks, geese, mergansers, and coots	Sept. 25 & 26.
<i>Nevada</i> (1)(5):	Ducks, geese, swans, mergansers, coots, and gallinules	
Northeast Zone		Sept. 11 & 12.
Northwest Zone		Oct. 2 & Feb. 12.
South Zone		Feb. 12 & 13.
<i>New Mexico</i> (1)	Ducks, mergansers, coots, and gallinules	Oct. 2 & 3.
<i>Oregon</i>	Ducks, geese, mergansers, and coots	

Area	Species	Season dates
Youth		Sept. 25 & 26.
Veteran-Active Military Personnel		Feb. 5.
Utah (1)(5):	Ducks, dark geese, swans, mergansers, and coots	
Zone 1		Sept. 18.
Zone 2		Oct. 2.
Washington (9):	Ducks, geese, brant, mergansers, and coots	
Youth		
East Zone		Oct. 2 & Feb. 5.
West Zone		Sept. 25 & Feb. 5.
Veteran-Active Military Personnel		
East Zone		Feb. 5.
West Zone		Feb. 5.
Wyoming	Ducks, geese, mergansers, and coots	Sept. 18 & 19.

- (1) The season is open to youth hunters only.
- (2) In *Maryland*, youth hunter(s) must be accompanied by an adult 21 years of age or older that holds a valid Maryland hunting license or is exempt from the hunting license requirements. One adult may take one or more young hunters, and that adult may call waterfowl, assist with decoys and retrieve downed birds but may not possess a hunting weapon and may not participate in other seasons that are open on the youth waterfowl hunting days. Active military and honorably discharged veterans, of any age, that possess a valid Maryland hunting license or are exempt from the hunting license requirements may also hunt waterfowl on November 6, 2021, and February 5, 2022. Active military and honorably discharged veterans at least 21 years of age or older may possess hunting weapons and hunt while also providing assistance to eligible youth hunters.
- (3) In *Maryland*, the bag limit for Canada and cackling geese is 1 in the AP Zone and 5 in the RP Zone.
- (4) In *North Carolina*, the daily bag limit in the Northeast Hunt Zone may not include Canada and cackling geese and white-fronted geese except by permit.
- (5) In *North Carolina, Virginia, Nevada, and Utah*, the daily bag limit may not include swans except by permit.
- (6) In *Pennsylvania*, September 25 is open to youth hunters only.
- (7) In *Kansas*, the adult accompanying the youth (17 years of age and younger) must possess any licenses and/or stamps required by law for that individual to hunt waterfowl.
- (8) In *Nebraska and South Dakota*, Tier II license holders may take 3 ducks or mergansers of any species in aggregate, and the possession limit is 9.
- (9) In *Washington*, the brant season and light goose season is closed in September.

■ 7. Section 20.106 is revised to read as follows:

**§ 20.106 Seasons, limits, and shooting hours for sandhill cranes.**

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits on the species designated in this section are as follows: Shooting and hawking hours are one-half hour before sunrise until sunset,

except as otherwise noted. Area descriptions were published in the July 16, 2021, **Federal Register** (86 FR 37854).

Federally authorized, State-issued permits are issued to individuals, and only the individual whose name and address appears on the permit at the time of issuance is authorized to take sandhill cranes at the level allowed by the permit, in accordance with provisions of both Federal and State regulations governing the hunting

season. The permit must be carried by the permittee when exercising its provisions and must be presented to any law enforcement officer upon request. The permit is not transferable or assignable to another individual, and may not be sold, bartered, traded, or otherwise provided to another person. If the permit is altered or defaced in any way, the permit becomes invalid.

CHECK STATE REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS.

Area	Season dates	Limits	
		Bag	Possession
<i>MISSISSIPPI FLYWAY</i>			
Alabama (1)(2)			
North Zone	Dec. 3–Jan. 31	3	3 per season.
Kentucky (1)(3)(4)	Dec. 7–Jan. 31	2	3 per season.
Minnesota (1)			
NW Zone	Sept. 18–Oct. 24	2	6.
Tennessee (1):			
Southeast Zone	Dec. 4–Jan. 30	2	2 per season.
Rest of State	Dec. 4–Jan. 30	2	2 per season.
<i>CENTRAL FLYWAY</i>			
Colorado (1)	Oct. 2–Nov. 28	3	9.
Kansas (1)(3)(5)			
West Zone	Oct. 16–Dec. 12	3	9.
Central Zone	Nov. 10–Jan. 6	3	9.
Montana:			
Regular Season Area (1)	Oct. 2–Nov. 28	3	9.
Special Season Area (6)	Sept. 1–Oct. 30	2 per season.	

Area	Season dates	Limits	
		Bag	Possession
<i>New Mexico:</i>			
Regular Season Area (1) .....	Oct. 30–Jan. 30 .....	3	6.
Middle Rio Grande (6)(7) .....	Nov. 20 & .....	3	3 per season.
Valley Area .....	Nov. 13–Nov. 14 & .....	3	6 per season.
	Nov. 27–Nov. 28 .....	3	6 per season.
	Dec. 11–Dec. 12 & .....	3	6 per season.
	Jan. 8–Jan. 9 & .....	3	6 per season.
	Jan. 15–Jan. 16 .....	3	6 per season.
Southwest Area (6) .....	Oct. 30–Nov. 7 & .....	3	6 per season.
	Jan. 8–Jan. 9 .....	3	6 per season.
Estancia Valley (6)(8) .....	Oct. 30–Nov. 7 .....	3	6.
<i>North Dakota (1):</i>			
Area 1 .....	Sept. 18–Nov. 14 .....	3	9.
Area 2 .....	Sept. 18–Nov. 14 .....	2	6.
Oklahoma (1) .....	Oct. 23–Jan. 23 .....	3	9.
South Dakota (1) .....	Sept. 25–Nov. 21 .....	3	9.
<i>Texas (1):</i>			
Zone A .....	Oct. 30–Jan. 30 .....	3	9.
Zone B .....	Nov. 26–Jan. 30 .....	3	9.
Zone C .....	Dec. 18–Jan. 23 .....	2	6.
<i>Wyoming:</i>			
Regular Season (Area 7) (1) .....	Sept. 11–Nov. 7 .....	3	9.
Riverton-Boysen Unit (Area 4) (6) .....	Oct. 2–Oct. 24 .....	1 per season	
Big Horn, Hot Springs, Park, and Washakie Counties (Area 6) (6).	Sept. 18–Oct. 10 .....	1 per season.	
Johnson, Natrona, and Sheridan Counties (Area 8) (6).	Sept. 1–Sept. 30 .....	1 per season.	

PACIFIC FLYWAY

<i>Arizona (6):</i>			
Zone 1 (9) .....	Nov. 12–Dec. 12 .....	3 per season.	
Zone 2 (10) .....	Nov. 19–Nov. 29 .....	3 per season.	
Zone 3 (11) .....	Nov. 27–Dec. 15 .....	3 per season	
<i>Idaho (6):</i>			
Areas 1, 3, 4, 5, & 6 .....	Sept. 1–Sept. 30 .....	2 per season.	
Area 2 .....	Sept. 1–Sept. 15 .....	2 per season.	
<i>Montana (6):</i>			
Zones 1 & 5 .....	Sept. 1–Oct. 30 .....	1	1 per season.
Zones 2, 3 & 4 .....	Sept. 1–Oct. 30 .....	2	2 per season.
<i>Utah (6):</i>			
Cache County .....	Sept. 4–Sept. 12 .....	1 per season.	
East Box Elder County .....	Sept. 4–Nov. 2 .....	1 per season.	
Rich County .....	Sept. 4–Sept. 12 .....	1 per season.	
Uintah Basin Zone .....	Oct. 2–Nov. 30 .....	1 per season.	
<i>Wyoming (6):</i>			
Areas 1, 2, 3, & 5 .....	Sept. 1–Sept. 8 .....	1 per season.	

(1) Each person participating in the regular sandhill crane seasons must have a valid sandhill crane hunting permit in their possession while hunting.

(2) In *Alabama*, shooting hours are from sunrise to sunset.

(3) In *Kansas* and *Kentucky*, shooting hours are from sunrise until sunset.

(4) In *Kentucky*, shooting hours are from sunrise to sunset.

(5) In *Kansas*, each person desiring to hunt sandhill cranes is required to pass an annual, online sandhill crane identification examination.

(6) Hunting is by State permit only. See State regulations for further information.

(7) In *New Mexico*, in the Middle Rio Grande Valley Area (Bernardo and Casa Colorado Wildlife Management Areas), the season is only open for youth hunters on November 20. See State regulations for further details.

(8) In *New Mexico*, in the Estancia Valley Area, the season will be closed to crane hunting on November 3.

(9) In *Arizona*, in Zone 1, season dates are November 12 to 14, November 19 to 21, November 23 to 25, November 27 to 29, December 1 to 3, December 5 to 7, and December 10 to 12. November 12 to 14 is restricted to archery hunters only, and December 10 to 12 is restricted to youth hunters only.

(10) In *Arizona*, in Zone 2, season dates are November 19 to 21, and November 27 to 29.

(11) In *Arizona*, in Zone 3, season dates are November 27 to 29, December 1 to 3, December 5 to 7, December 9 to 11, and December 13 to 15.

■ 8. Section 20.107 is revised to read as follows:

**§ 20.107 Seasons, limits, and shooting hours for swans.**

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits on the species designated in this section are as follows:

Shooting hours are one-half hour before sunrise until sunset, except as otherwise restricted by State

regulations. Hunting is by State permit only.

Federally authorized, State-issued permits are issued to individuals, and only the individual whose name and address appears on the permit at the time of issuance is authorized to take swans at the level allowed by the permit, in accordance with provisions of both Federal and State regulations governing the hunting season. The permit must be carried by the permittee when exercising its provisions and must be presented to any law enforcement officer upon request. The permit is not transferable or assignable to another

individual, and may not be sold, bartered, traded, or otherwise provided to another person. If the permit is altered or defaced in any way, the permit becomes invalid.

**Note:** Successful permittees must immediately validate their harvest by that method required in State regulations.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS AND DELINEATIONS OF GEOGRAPHICAL AREAS. SPECIAL RESTRICTIONS MAY APPLY ON FEDERAL AND STATE PUBLIC HUNTING AREAS AND FEDERAL INDIAN RESERVATIONS.

Area	Season dates	Limits
<b>ATLANTIC FLYWAY</b>		
Delaware .....	Nov. 11–Jan. 31 .....	1 tundra swan per permit.
North Carolina .....	Nov. 6–Jan. 31 .....	1 tundra swan per permit.
Virginia .....	Nov. 17–Jan. 31 .....	1 tundra swan per permit.
<b>CENTRAL FLYWAY (1)</b>		
Montana .....	Oct. 2–Jan. 6 .....	1 swan per permit.
North Dakota .....	Oct. 2–Dec. 31 .....	1 tundra swan per permit.
South Dakota .....	Oct. 2–Jan. 7 .....	1 tundra swan per permit.
<b>PACIFIC FLYWAY (1)</b>		
Idaho (2) .....	Oct. 19–Dec. 1 .....	1 swan per season.
Montana (2) .....	Oct. 9–Dec. 1 .....	1 swan per season.
Nevada (3)(4) .....	Oct. 16–Jan. 2 & .....	2 swans per season.
	Jan. 5–Jan. 30 .....	2 swans per season.
Utah (3)(4) .....	Oct. 2–Dec. 12 .....	1 swan per season.

(1) See State regulations for description of area open to swan hunting.

(2) In *Idaho* and *Montana*, all harvested swans must be reported by way of a bill measurement card within 3 days of harvest.

(3) In *Nevada* and *Utah*, all harvested swans and tags must be checked or registered within 3 days of harvest.

(4) Harvests of trumpeter swans are limited to 20 in Utah and 10 in Nevada. When it has been determined that the quota of trumpeter swans allotted to Nevada and Utah have been filled, the season for taking of any swan species in the respective State will be closed by either the Director upon giving public notice through local information media at least 48 hours in advance of the time and date of closing, or by the State through State regulations with such notice and time (not less than 48 hours) as they deem necessary.

■ 9. Section 20.109 is revised to read as follows:

**§ 20.109 Extended seasons, limits, and hours for taking migratory game birds by falconry.**

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Hawking hours are one-half hour before sunrise until sunset except as

otherwise restricted by State regulations.

Area descriptions were published in the July 16, 2021, **Federal Register** (86 FR 37854).

**Limits:** The daily bag limit may include no more than 3 migratory game birds in the aggregate. The possession limit is three times the daily bag limit. These limits apply to falconry during both regular hunting seasons and extended falconry seasons, unless further restricted by State regulations. The falconry bag and possession limits are not in addition to regular season limits. Unless otherwise specified,

extended falconry for ducks does not include sea ducks within the special sea duck areas.

Although many States permit falconry during the gun seasons, only extended falconry seasons are shown below. Please consult State regulations for details.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS AND DELINEATIONS OF GEOGRAPHICAL AREAS. SPECIAL RESTRICTIONS MAY APPLY ON FEDERAL AND STATE PUBLIC HUNTING AREAS AND FEDERAL INDIAN RESERVATIONS.

Area	Extended falconry dates
<b>ATLANTIC FLYWAY</b>	
<i>Delaware:</i>	
Doves .....	Feb. 1–Feb. 19.
Rails .....	Nov. 25–Jan. 6.
Woodcock .....	Oct. 1–Nov. 3 & Feb. 1–Mar. 10.
Ducks, mergansers, and coots .....	Feb. 1–Mar. 7.



Area	Extended falconry dates
Brant .....	Feb. 1–Feb. 24.
<i>Florida:</i>	
Doves .....	Feb. 1–Feb. 17.
Rails .....	Nov. 10–Dec. 16.
Woodcock .....	Nov. 24–Dec. 17 & Feb. 1–Mar. 10.
Gallinules .....	Nov. 10–Dec. 13.
Ducks, mergansers, and coots .....	Nov. 3–Nov. 12 & Feb. 7–Mar. 3.
<i>Georgia:</i>	
Ducks, geese, gallinules, and sea ducks .....	Nov. 29–Dec. 4.
<i>Maine:</i>	
Ducks, geese, and brant:	
North Zone .....	Dec. 18–Feb. 8.
South & Coastal Zones .....	Jan. 7–Feb. 28.
<i>Maryland:</i>	
Doves .....	Jan. 13–Jan. 31.
Rails .....	Nov. 22–Jan. 3.
Woodcock .....	Oct. 1–Oct. 23 & Feb. 1–Mar. 10.
Ducks .....	Feb. 1–Mar. 9.
Brant .....	Feb. 1–Mar. 10.
Light Geese .....	Feb. 25–Mar. 10.
<i>Massachusetts:</i>	
Ducks, mergansers, sea ducks, and coots .....	Oct. 2–Oct. 9 & Jan. 24–Feb. 3.
<i>New Hampshire:</i>	
Ducks, mergansers, and coots:	
Northern Zone .....	Dec. 1–Jan. 14.
Inland Zone .....	Nov. 8–Nov. 23 & Dec. 20–Jan. 17.
Coastal Zone .....	Jan. 25–Mar. 10.
<i>New Jersey:</i>	
Woodcock:	
North Zone .....	Oct. 1–Oct. 15 & Nov. 29–Jan. 31.
South Zone .....	Oct. 1–Nov. 5 & Dec. 1–Dec. 15 & Jan. 2–Jan. 31.
Ducks, mergansers, coots, and brant:	
North Zone .....	Jan. 16–Mar. 10.
South Zone .....	Jan. 21–Mar. 10.
Coastal Zone .....	Jan. 31–Mar. 10.
<i>New York:</i>	
Ducks, mergansers, and coots:	
Long Island Zone .....	Nov. 1–Nov. 19 & Nov. 29–Dec. 10 & Jan. 31–Feb. 13.
Northeastern Zone .....	Oct. 1 & Oct. 25–Oct. 29 & Dec. 6–Jan. 13.
Southeastern Zone .....	Oct. 1–Oct. 15 & Nov. 29–Dec. 3 & Dec. 20–Jan. 13.
Western Zone .....	Oct. 1–Oct. 15 & Nov. 10–Nov. 26 & Jan. 3–Jan. 13.
<i>North Carolina:</i>	
Doves .....	Oct. 4–Oct. 16.
Rails, and gallinules .....	Dec. 13–Jan. 15.
Woodcock .....	Dec. 1–Dec. 11 & Feb. 1–Feb. 26.
Ducks, mergansers, and coots .....	Oct. 4–Oct. 16 & Feb. 1–Feb. 12.
<i>Pennsylvania:</i>	
Doves .....	Nov. 27–Dec. 15 & Jan. 3.
Rails .....	Nov. 22–Jan. 3.
Woodcock and snipe .....	Sept. 1–Oct. 15 & Nov. 27–Dec. 11 & Dec. 23–Jan. 3.
Gallinules .....	Nov. 22–Jan. 1.
Ducks, mergansers, and coots:	
North Zone .....	Oct. 25–Nov. 15 & Feb. 9–Mar. 10.
South Zone .....	Oct. 18–Nov. 22 & Feb. 23–Mar. 10.
Northwest Zone .....	Dec. 6–Dec. 27 & Feb. 9–Mar. 10.
Lake Erie Zone .....	Jan. 19–Mar. 10.
Canada, cackling, and white-fronted geese:	
SJBZ Zone .....	Mar. 7–Mar. 10.
AP Zone .....	Jan. 8–Mar. 10.
RP Zone .....	Mar. 9–Mar. 10.
<i>South Carolina:</i>	
Ducks, mergansers, and coots .....	Nov. 1–Nov. 19 & Dec. 1–Dec. 11.
<i>Virginia:</i>	
Doves .....	Jan. 18–Jan. 31.
Rails, gallinules .....	Nov. 16–Dec. 22.
Woodcock .....	Oct. 17–Nov. 10 & Dec. 9–Dec. 26 & Jan. 13–Jan. 31.
Ducks, mergansers, and coots .....	Nov. 29–Dec. 17 & Jan. 31–Feb. 11.
Canada and cackling geese:	
Eastern (AP) Zone .....	Nov. 17–Nov. 28 & Jan. 1–Jan. 14 & Jan. 31–Feb. 23.
Western (SJBZ) Zone .....	Feb. 16–Feb. 23.
Brant .....	Oct. 17–Nov. 22 & Nov. 29–Dec. 17 & Jan. 31.

## MISSISSIPPI FLYWAY

Arkansas:

Area	Extended falconry dates
Ducks, mergansers, and coots .....	Feb. 1–Feb. 15.
<i>Illinois:</i>	
Doves .....	Nov. 15–Dec. 1.
Rails .....	Sept. 1–Sept. 10 & Nov. 20–Dec. 16.
Woodcock .....	Sept. 1–Oct. 15 & Nov. 30–Dec. 16.
Ducks, mergansers, and coots .....	Feb. 10–Mar. 10.
<i>Indiana:</i>	
Doves .....	Oct. 18–Oct. 31 & Jan. 8–Jan. 10.
Woodcock .....	Sept. 20–Oct. 14 & Nov. 29–Jan. 4.
Ducks, mergansers, and coots:	
North Zone .....	Sept. 27–Sept. 30 & Feb. 14–Mar. 10.
Central Zone .....	Oct. 23–Oct. 29 & Feb. 17–Mar. 10.
South Zone .....	Oct. 30–Nov. 5 & Feb. 17–Mar. 10.
<i>Iowa:</i>	
Ducks, mergansers, and coots .....	Jan. 1–Jan. 29.
<i>Kentucky:</i>	
Ducks, mergansers, and coots .....	Nov. 30–Dec. 6 & Feb. 1–Feb. 15.
<i>Louisiana:</i>	
Doves .....	Sept. 15–Oct. 1.
Rails and gallinules .....	Nov. 2–Nov. 12 & Jan. 6–Jan. 30.
East Zone .....	Nov. 2–Nov. 12.
West Zone .....	Jan. 6–Jan. 31.
Woodcock .....	Nov. 2–Dec. 17.
Ducks:	
East Zone .....	Nov. 2–Nov. 19 & Dec. 6–Dec. 17.
West Zone .....	Nov. 2–Nov. 12 & Dec. 6–Dec. 17 & Jan. 3–Jan. 9.
<i>Michigan:</i>	
Ducks, mergansers, coots, and gallinules .....	Jan. 3–Jan. 16 & Feb. 24–Mar. 10.
<i>Minnesota:</i>	
Doves .....	Nov. 30–Dec. 16.
Rails and snipe .....	Nov. 9–Dec. 16.
Woodcock .....	Sept. 1–Sept. 24 & Nov. 9–Dec. 16.
Ducks, mergansers, coots, and gallinules .....	Dec. 11–Jan. 24.
<i>Mississippi:</i>	
Doves .....	Dec. 2–Dec. 18.
Ducks, mergansers, and coots .....	Feb. 1–Mar. 1.
<i>Missouri:</i>	
Doves .....	Nov. 30–Dec. 16.
Ducks, mergansers, and coots .....	Sept. 11–Sept. 26 & Feb. 10–Mar. 10.
<i>Tennessee:</i>	
Doves .....	Sept. 29–Sept. 30 & Jan. 16–Jan. 30.
Rails .....	Nov. 10–Dec. 14.
Woodcock .....	Nov. 1–Nov. 12 & Dec. 6–Jan. 9 & Feb. 1–Feb. 15.
Snipe .....	Nov. 14–Feb. 28.
Gallinules .....	Nov. 10–Dec. 12.
Ducks, mergansers, and coots: .....	Nov. 29–Dec. 3 & Jan. 31–Feb. 28.
<i>Wisconsin:</i>	
Rails, snipe, and gallinules:	
North Zone .....	Sept. 1–Sept. 24 & Nov. 24–Dec. 5.
South Zone .....	Sept. 1–Oct. 1 & Oct. 11–Oct. 15.
Open Water Zone .....	Same as South Zone.
Woodcock .....	Sept. 1–Sept. 24 & Nov. 9–Dec. 16.
Ducks, mergansers, and coots .....	Sept. 18–Sept. 19 & Jan. 7–Feb. 11.

**CENTRAL FLYWAY**

<i>Kansas:</i>	
Ducks, mergansers, and coots:	
Low Plains .....	Feb. 24–Mar. 10.
<i>Montana (1):</i>	
Ducks, mergansers, and coots .....	Sept. 22–Oct. 1.
<i>Nebraska:</i>	
Ducks, mergansers, and coots:	
Zone 1 .....	Feb. 25–Mar. 10.
Zone 2 .....	Feb. 25–Mar. 10.
Zone 3 .....	Feb. 25–Mar. 10.
Zone 4 .....	Feb. 25–Mar. 10.
<i>New Mexico:</i>	
Doves	
North Zone .....	Nov. 30–Dec. 4 & Dec. 21–Jan. 1.
South Zone .....	Oct. 29–Nov. 5 & Nov. 22–Nov. 30.
Band-tailed pigeons	
North Zone .....	Sept. 1–Sept. 14.
South Zone .....	Oct. 1–Oct. 14.

Area	Extended falconry dates
Ducks and coots .....	Sept. 11–Sept. 19.
Sandhill cranes (2):	
Regular Season Area .....	Oct. 16–Oct. 29.
Estancia Valley Area .....	Nov. 8–Dec. 28.
Gallinules .....	Nov. 20–Dec. 26.
Sora and Virginia rails .....	Nov. 20–Dec. 26.
<i>North Dakota:</i>	
Ducks, mergansers, coots, and snipe .....	Sept. 1–Sept. 3 & Sept. 6–Sept. 10.
<i>Oklahoma:</i>	
Doves .....	Nov. 6–Nov. 22.
Ducks, mergansers, and coots:	
Low Plains .....	Feb. 14–Feb. 28.
Gallinules and rails .....	Feb. 1–Mar. 9.
Woodcock .....	Dec. 15–Feb. 14.
Sandhill cranes .....	Jan. 24–Feb. 6.
<i>South Dakota:</i>	
Ducks, mergansers, and coots:	
High Plains .....	Sept. 1–Sept. 8.
Low Plains:	
North Zone .....	Sept. 1–Sept. 24 & Dec. 11–Dec. 19.
Middle Zone .....	Sept. 1–Sept. 24 & Dec. 11–Dec. 19.
South Zone .....	Oct. 2–Oct. 21 & Jan. 8–Jan. 18.
<i>Texas:</i>	
Doves .....	Nov. 19–Dec. 5.
Rails, gallinules, and woodcock .....	Jan. 31–Feb. 14.
Ducks, mergansers, and coots:	
Low Plains .....	Jan. 31–Feb. 14.
<i>Wyoming:</i>	
Doves .....	Nov. 30–Dec. 16.
Rails .....	Nov. 10–Dec. 16.
Ducks, mergansers, and coots	
Zone C1 .....	Sept. 25–Sept. 26 & Oct. 20–Oct. 27.
Zone C2 .....	Sept. 18–Sept. 24 & Dec. 6–Dec. 8.
Zone C3 .....	Same as Zone C2.
<i>PACIFIC FLYWAY</i>	
<i>Arizona:</i>	
Doves .....	Sept. 16–Nov. 1.
Ducks, mergansers, coots, and gallinules:	
North Zone .....	Sept. 27–Sept. 30.
South Zone .....	Feb. 1–Feb. 4.
<i>California:</i>	
Ducks, mergansers, coots, and gallinules:	
Colorado River Zone .....	Feb. 1–Feb. 4.
Southern Zone .....	Feb. 26–Feb. 27.
Southern San Joaquin Valley Zone .....	Feb. 26–Feb. 27.
Balance of State Zone .....	Feb. 26–Feb. 27.
Canada geese, cackling geese, and white-fronted geese:	
Southern Zone (3) .....	Feb. 26–Feb. 27.
Light geese:	
Southern Zone (3) .....	Feb. 26–Feb. 27.
<i>New Mexico:</i>	
Doves:	
North Zone .....	Nov. 30–Dec. 4 & Dec. 21–Jan. 1.
South Zone .....	Oct. 29–Nov. 5 & Nov. 22–Nov. 30.
<i>Oregon:</i>	
Doves	
Zone 1 .....	Oct. 1–Nov. 14 & Dec. 15–Dec. 16.
Zone 2 .....	Oct. 31–Dec. 16.
Band-tailed pigeons (4) .....	Sept. 1–Sept. 14 & Sept. 24–Dec. 16.
<i>Utah:</i>	
Doves .....	Oct. 31–Dec. 16.
Band-tailed pigeons .....	Oct. 31–Dec. 16.
<i>Washington:</i>	
Doves .....	Oct. 31–Dec. 16.
Ducks, mergansers, coots, and dark geese:	
East Zone .....	Oct. 2 & Feb. 5.
West Zone .....	Sept. 25 & Feb. 5.
Light geese and brant .....	Feb. 5.
<i>Wyoming:</i>	
Doves .....	Nov. 30–Dec. 16.
Sora and Virginia rails .....	Nov. 10–Dec. 16.

Area	Extended falconry dates
Ducks, mergansers, and coots .....	Sept. 18–Sept. 19

- (1) In *Montana*, the limits are 2 daily and 6 in possession.
- (2) In *New Mexico*, the limits for sandhill cranes are 3 daily and 6 in possession.
- (3) In *California*, in the Imperial County Special Management Area, there is no extended falconry season.
- (4) In *Oregon*, no more than 1 pigeon daily in bag or possession.

[FR Doc. 2021–18429 Filed 8–30–21; 8:45 am]

BILLING CODE 4333–15–P

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

RIN 0648–XB238

**Fisheries of the Northeastern United States; Northeast Skate Complex; Rescission of Control Dates**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notification of rescinded control dates.

**SUMMARY:** NMFS announces the rescission of the July 30, 2009, and March 31, 2014, skate wing and bait fishery control dates. The New England Fishery Management Council has decided to discontinue development of limited access alternatives for both the skate wing and skate bait fisheries as part of Amendment 5 to the Northeast Skate Complex Fishery Management Plan. The Council also stated that the existing control dates for each sector of the fishery are too outdated to be used should the Council reconsider limited access for the skate fisheries in the future and has requested that NMFS rescind both control dates. This notification informs stakeholders and the public of this decision, and that July 30, 2009, and March 31, 2014, are no longer considered dates for entry into the bait and skate wing fisheries, respectively.

**DATES:** The rescission of skate wing and bait fishery control dates is effective August 31, 2021.

**FOR FURTHER INFORMATION CONTACT:** Cynthia Ferrio, Fishery Policy Analyst, (978) 281–9180.

**SUPPLEMENTARY INFORMATION:** The New England Fishery Management Council manages a complex of seven skate species (barndoor, clearnose, little, rosette, smooth, thorny, and winter skate) through the Northeast Skate Complex Fishery Management Plan

(FMP). Under this FMP, skates are harvested and managed within two targeted fishery sectors, one for use as food (the wing fishery) and one for use as bait in other fisheries (the bait fishery). Currently, all skate permits are open access and may be obtained anyone with a valid commercial operator’s permit.

NMFS announced a control date of July 30, 2009, for the bait sector of the fishery (74 FR 37977; July 30, 2009) during the initial development of Amendment 3 to the Skate FMP. At that time, the Council was concerned about the possibility of increased effort by new entrants into the skate bait fishery, and therefore, considered developing a limited access program for that sector only. The notification announcing the control date intended to promote public awareness of potential eligibility criteria for access to the fishery and possible implementation of a limited-entry management plan. Although Amendment 3 (75 FR 34049; June 16, 2010) did not end up establishing limited entry for the bait fishery, the July 30, 2009 control date remained on record for future use.

On March 31, 2014, NMFS announced a separate control date for the wing fishery at the Council’s request (79 FR 18002; March 31, 2014). This notification was not tied to a specific regulatory action or amendment at the time, but was intended as a preliminary step toward preparing for a limited entry program for the overall skate fishery and announcing these possibilities to the public.

In 2016, the Council began developing Amendment 5 to the Skate FMP, which included consideration of limited access for both the bait and wing sectors of the fishery. However, at its meeting in April 2021, the Council decided to discontinue development of all limited access alternatives in this amendment in favor of other management strategies to address latent effort. In conjunction with that decision, the Council also determined that both control dates for the wing and bait skate fisheries are outdated should a limited access program be reconsidered in the future. As a result, at its following meeting in June 2021, the Council voted to request NMFS rescind the existing control dates for the skate FMP. Therefore, NMFS

announces the rescission of the July 30, 2009, control date with respect to the skate bait fishery; and the March 31, 2014, control date with respect to the skate wing fishery.

The Council decided to not develop a limited entry management system for the Skate FMP in Amendment 5. However, if the Council chooses to pursue limited access in the future, it will consider new control dates for these fisheries.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: August 25, 2021.

**Jennifer M. Wallace,**  
*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2021–18679 Filed 8–30–21; 8:45 am]

BILLING CODE 3510–22–P

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

[Docket No. 210716–0148; RTID 0648–XB188]

**Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fishery; 2021 *Illex* Squid Quota Harvested**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; reduction of possession limit.

**SUMMARY:** Federal *Illex* squid vessel permit holders are prohibited from fishing for, catching, possessing, transferring or landing more than 10,000 lb (4,535 kg) of *Illex* squid per trip, and from landing *Illex* squid more than once per calendar day. This prohibition is required when NMFS projects that 94 percent of the 2021 annual catch limit has been caught. This action is intended to prevent over-harvest of *Illex* squid for the fishing year.

**DATES:** Effective 0001 hr local time, August 30, 2021, through December 31, 2021.

**FOR FURTHER INFORMATION CONTACT:** Alyson Pitts, Fishery Management Specialist, (978) 281–9352.

**SUPPLEMENTARY INFORMATION:**

Regulations for the *Illex* squid fishery are at 50 CFR part 648. The regulations at § 648.24(a)(2) require that NMFS must prohibit Federal *Illex* squid vessel permit holders from directed fishing when the Regional Administrator projects that 94 percent of the domestic annual harvest (DAH) quota is caught. Vessels may not catch, possess, transfer, or land more than 10,000 lb (4,535 kg) of *Illex* squid per trip, or land *Illex* squid more than once per calendar day. The Regional Administrator monitors the *Illex* squid fishery catch based on dealer reports, state data, and other available information. When 94 percent of the DAH has been reached, NMFS must provide at least 72 hours of notice to the public that it made this determination. NMFS must also publish the date that the catch is projected to reach 94 percent of the quota and the date when prohibitions on catch and landings for the remainder of the fishing year become effective.

The Regional Administrator has determined, based on dealer reports and other available information, that the *Illex* squid fleet will catch 94 percent of the total *Illex* squid DAH quota for the 2021 season through December 31, 2021, by August 30, 2021. Therefore,

effective 0001 August 30, 2021, federally permitted vessels may not fish for, catch, possess, transfer, or land more than 10,000 lb (4,535 kg) of *Illex* squid, and may not land *Illex* squid more than once per calendar day. Vessels that have entered port before 0001 hr on August 30, 2021, may offload and sell more than 10,000 lb (4,535 kg) of *Illex* squid from that trip. Also, federally permitted dealers may not receive *Illex* squid from federally permitted *Illex* squid vessels that harvest more than 10,000 lb (4,535 kg) of *Illex* squid through 2400 hr, December 31, 2021, unless it is from a trip landed by a vessel that entered port before 0001 hr on August 30, 2021.

**Classification**

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR part 648, which was issued pursuant to section 304(b), and is exempt from review under Executive Order 12866.

NMFS finds good cause pursuant to 5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(3) to waive prior notice and the opportunity for public comment and the delayed effectiveness because it would be contrary to the public interest and impracticable. Data and other

information indicating the *Illex* squid fleet will have landed at least 94 percent of the 2021 DAH quota have only recently become available. Landings data are updated on a weekly basis, and NMFS monitors catch data on a daily basis as catch increases toward the limit. Further, high-volume catch and landings in this fishery increases total catch relative to the quota quickly. The regulations at § 648.24(a)(2) require such action to ensure that *Illex* squid vessels do not exceed the 2021 DAH quota. If implementation of this action is delayed, the quota for the 2021 fishing year may be exceeded, thereby undermining the conservation objectives of the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan. Also, the public had prior notice and full opportunity to comment on this process when the provisions regarding closures and the 2021 quota levels were put in place.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: August 25, 2021.

**Jennifer M. Wallace,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2021-18724 Filed 8-26-21; 4:15 pm]

**BILLING CODE 3510-22-P**

# Proposed Rules

Federal Register

Vol. 86, No. 166

Tuesday, August 31, 2021

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA–2021–0296; Airspace  
Docket No. 21–ASW–6]

RIN 2120–AA66

#### Proposed Revocation of Class E Airspace; Palestine, TX: Withdrawal

**AGENCY:** Federal Aviation  
Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking  
(NPRM); withdrawal.

**SUMMARY:** The FAA is withdrawing the NPRM published in the **Federal Register** on May 20, 2021, to amend Class E airspace extending upward from 700 feet above the surface at Palestine Municipal Airport, Palestine, TX. Upon further consideration, the FAA has determined that an operational requirement for the airspace still exists; therefore, withdrawal of the proposed rule is warranted.

**DATES:** The FAA is withdrawing the proposed rule published May 20, 2021 (86 FR 27327), as of August 31, 2021.

**FOR FURTHER INFORMATION CONTACT:** Rebecca Shelby, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5857.

#### SUPPLEMENTARY INFORMATION:

#### History

On May 20, 2021, the FAA published in the **Federal Register** (86 FR 27327; May 20, 2021) for Docket No. FAA–2021–0296, an NPRM proposing to modify Class E airspace extending upward from 700 feet above the surface at Palestine, TX, due to the decommissioning of the Palestine NDB and associated extension from the airspace legal description; and updating the geographic coordinates of the airport to coincide with the FAA’s aeronautical database.

#### FAA’s Conclusions

In reviewing the NPRM, we have determined that the amending of the Class E airspace would increase the radius of the airspace to 8.2 miles from the current 7.1 mile radius, rather than reducing the radius to 6.2 miles, as proposed in the NPRM. In addition, the current airspace definition doesn’t include the Palestine NDB or any associated extension. The proposed rule would also need to include removal of the Frankston VOR/DME and the associated extension. The FAA has concluded that this NPRM needs to be withdrawn, and the FAA will begin the process again with a new NPRM.

#### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

#### The Withdrawal

■ Accordingly, pursuant to the authority delegated to me, the NPRM published in the **Federal Register** on May 20, 2021 (86 FR 27328) [FR Doc. 2021–10560] is hereby withdrawn.

**Authority:** 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

Issued in Fort Worth, Texas, on August 24, 2021.

**Martin A. Skinner,**

*Manager, Operations Support Group, ATO  
Central Service Center.*

[FR Doc. 2021–18638 Filed 8–30–21; 8:45 am]

**BILLING CODE 4910–13–P**

## FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Parts 73 and 76

[MB Docket No. 98–204; FCC 21–88; FR ID  
42735]

#### Review of the Commission’s Broadcast and Cable Equal Employment Opportunity Rules and Policies

**AGENCY:** Federal Communications  
Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Commission seeks to update the record in MB Docket No. 98–204, regarding how the Commission can recommence the collection of data on the FCC Form 395–B, as contemplated by the

Communications Act of 1934, as amended (Act).

**DATES:** Comments are due on or before September 30, 2021; reply comments are due on or before November 1, 2021.

#### ADDRESSES:

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: <http://apps.fcc.gov/ecfs/>.

- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.

- Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.

- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE, Washington, DC 20554.

- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID–19. See FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy, Public Notice, DA 20–304 (March 19, 2020). <https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy>.

*People with Disabilities:* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

**FOR FURTHER INFORMATION CONTACT:** Brendan Holland, Media Bureau, Industry Analysis Division, [Brendan.Holland@fcc.gov](mailto:Brendan.Holland@fcc.gov), (202) 418–2757.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission’s Further Notice of Proposed Rulemaking (FNPRM), FCC 21–88, in MB Docket No. 98–204, adopted on July 23, 2021, and

released on July 26, 2021. The complete text of this document is available electronically via the FCC's website at <https://docs.fcc.gov/public/attachments/FCC-21-88A1.pdf>. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) (mail to: [fcc504@fcc.gov](mailto:fcc504@fcc.gov)) or call the FCC's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

## Synopsis

1. *Introduction:* By this FNPRM, we seek to refresh the existing record regarding the statutorily mandated collection of data on the FCC Form 395-B (Form 395-B, the broadcast station Annual Employment Report, can be found at <https://transition.fcc.gov/Forms/Form395B/395b.pdf>), as contemplated by the Communications Act of 1934, as amended (Act). This employment report form is intended to gather workforce composition data from broadcasters on an annual basis but the form and data have not been collected for many years. The filing of the form was suspended in 2001 in the wake of a decision by the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) vacating certain aspects of the Commission's Equal Employment Opportunity (EEO) requirements. While the Commission in 2004 adopted revised regulations regarding the filing of Form 395-B and updated the form, the requirement that broadcasters once again submit the form to the Commission was suspended until issues were resolved regarding confidentiality of the employment data. To date, those issues remain unresolved, and the filing of Form 395-B remains suspended. Accordingly, by this FNPRM, we seek to refresh the record regarding the collection of broadcaster workforce composition data and obtain further input on the legal, logistical, and technical issues surrounding FCC Form 395-B.

2. *Background.* The Commission has administered regulations governing the EEO responsibilities of broadcast licensees since 1969, and of cable operators since 1972. The Commission's EEO rules prohibit employment discrimination on the basis of race, color, religion, national origin, age, or sex, and require broadcasters and MVPDs to provide equal employment opportunities. In addition to the broad EEO protections applicable to all full-power radio and television broadcasters, licensees including Low Power and Class A television stations and multichannel video programming

distributors (MVPDs) of a specific size must also adhere to EEO program requirements. (Permittees and licensees of Low Power FM are not subject to the EEO program requirements of this rule section. *See* 47 CFR 73.801.) Specifically, the Commission's rules require that each broadcast station that is part of an employment unit of five or more full-time employees, and each MVPD employment unit with six or more full-time employees establish, maintain, and carry out a positive continuing program to ensure equal opportunity and nondiscrimination in employment policies and practice.

3. The Commission has also historically collected data from broadcasters and MVPDs about their workforce composition based on race and gender categories. After finding that, among other things, "increased numbers of females and minorities in positions of management authority in the cable and broadcast television industries advances the Nation's policy favoring diversity in the expression of views in the electronic media," Congress established a statutory requirement for the Commission to maintain its existing EEO regulations and forms as applied to television stations, which included its collection of workforce composition data from television broadcasters. (While Congress did not codify the Commission's previously existing EEO requirements for radio broadcast licensees, the Commission has found that Congress ratified the Commission's authority to promulgate EEO rules for radio as well as television licensees.) In addition, Congress revised the requirement that cable operators report employment data, first established in the 1984 Cable Act, to include additional job categories and extended the requirement to include MVPDs.

4. Section 334(a) of the Communications Act of 1934, as amended (the Act), states that "except as specifically provided in this section, the Commission shall not revise (1) the regulations concerning equal employment opportunity as in effect on September 1, 1992 (47 CFR 73.2080) as such regulations apply to television broadcast station licensees and permittees; or (2) the forms used by such licensees and permittees to report pertinent employment data to the Commission." Section 334(c) authorizes the Commission to make only "nonsubstantive technical or clerical revisions" to the regulations described in section 334(a) "as necessary to reflect changes in technology, terminology, or Commission organization." Thus, the Commission has previously concluded

that it is directed by statute to require the submission of such employee data from television broadcast licensees. The Commission regularly collected this data from 1970 until 2001 when the Commission suspended filing of Form 395-B in response to two D.C. Circuit decisions regarding the unconstitutionality of the Commission's use of data collected on the Form 395-B to assess compliance with EEO requirements, although the collection of data itself has never been held facially invalid on constitutional grounds.

5. Specifically, in *Lutheran Church-Missouri Synod v. FCC* (*Lutheran Church*), the D.C. Circuit reversed and remanded a Commission finding—based on rules that required comparison of the race and sex of each applicant and person hired with the overall availability of minorities in the relevant labor force—that Lutheran Church had failed to make adequate efforts to recruit minorities. *Lutheran Church-Missouri Synod v. FCC*, 141 F.3d 344, 347–48 (D.C. Cir. 1998) (*Lutheran Church*), *pet. for reh'g denied*, 154 F.3d 487, *pet. for reh'g en banc denied*, 154 F.3d 494 (D.C. 1998). The court concluded that use of broadcaster employee data to assess EEO compliance in the context of license renewal pressured broadcasters to engage in race-conscious hiring in violation of the equal protection component of the Due Process Clause of the Fifth Amendment of the Constitution. In reaching this conclusion, the court applied strict constitutional scrutiny applicable to racial classifications imposed by the federal government and determined that the Commission's stated purpose of furthering programming diversity was not compelling and its broadcast EEO rules were not narrowly tailored to further that interest. The court made clear that "[i]f the regulations merely required stations to implement racially neutral recruiting and hiring programs, the equal protection guarantee would not be implicated."

6. On remand, the Commission crafted new EEO rules requiring that broadcast licensees undertake an outreach program to foster equal employment opportunities in the broadcasting industry. The Commission also reinstated the requirement that broadcasters file employee data on Form 395-B with the Commission annually. In adopting these revised rules and reinstating the collection of workforce data, the Commission stated that:

7. The Commission will no longer use the employment profile data in the annual employment reports in screening renewal applications or assessing compliance with EEO program

requirements. The Commission will use this information only to monitor industry employment trends and report to Congress.

8. On reconsideration, the Commission explained that it “disagree[d] with [the] contention that the collection of employment data might result in raced-based hiring decisions.” The Commission also explained that it “will summarily dismiss any petition filed by a third party based on Form 395–B employment data” and it “will not use this data as a basis for conducting audits or inquiries.” The Commission also codified the following Note to § 73.3612 of its rules (which requires the collection of employment data from broadcasters).

9. Data concerning the gender, race and ethnicity of a broadcast station’s workforce collected in the annual employment report will be used only for purposes of analyzing industry trends and making reports to Congress. Such data will not be used for the purpose of assessing any aspect of an individual broadcast licensee’s compliance with the equal employment opportunity requirements of § 73.2080 of the Commission’s rules.

10. In *MD/DC/DE Broadcasters Association v. FCC*, several state broadcaster associations challenged the revised EEO outreach rules, which had allowed broadcasters the flexibility to choose between two options designed to foster employment opportunities in the industry. Specifically, the revised EEO outreach rules consisted of Option A, which required licensees to undertake four approved recruitment initiatives in a two-year period without reporting the race and sex of each job applicant, or Option B, which allowed broadcasters to design their own outreach programs but required reporting of the race and sex of each applicant. *MD/DC/DE Broadcasters Association v. FCC*, 236 F.3d 13, 17 (2001) (*MD/DC/DE Broadcasters*), *pet. for reh’g denied.*, 253 F.3d 732 (D.C. Cir. 2001), *cert. denied*, 122 S. Ct. 920 (2002). The D.C. Circuit again applied strict judicial scrutiny and found that Option B violated the equal protection component of the Due Process Clause of the Fifth Amendment because, by examining the number of women and minorities in the applicant pool and then investigating any broadcaster with “few or no” women or minority applicants, the Commission “pressured” broadcasters to focus resources on recruiting women and minorities. The court further found that racial data about job applicants were not probative on the question of a broadcaster’s efforts to achieve broad outreach or “narrowly tailored to further

the Commission’s stated goal of non-discrimination in the broadcast industry.” Because the court found that Option B was not severable from the rest of the rules, it vacated them in their entirety. Following this decision, on January 31, 2001, the Commission suspended the requirement for broadcasters and MVPDs to file employee data on Forms 395–B and 395–A, respectively, and thus no workforce composition data has been collected in over twenty years.

11. On November 20, 2002, the Commission released its *Second Report and Order* and *Third NPRM*, establishing new EEO rules requiring broadcast licensees and MVPDs to recruit for all full-time job openings, provide notice of job vacancies to recruitment organizations that request notification, undertake additional outreach measures, such as job fairs and scholarship programs, and refrain from discrimination in employment practices. The Commission eliminated the former Option B, which had linked the outreach requirement to data regarding the race and sex of each applicant. The Commission explained that its new EEO rules were “race and gender neutral” and “will not pressure employers to favor anyone on the basis of race, ethnicity, or gender.” The Commission deferred action on issues relating to the annual employment report forms, in part because it needed to incorporate new standards for classifying data on race and ethnicity adopted by the Office of Management and Budget (OMB) in 1997. The Commission also explained that the annual employment report is “unrelated to the implementation and enforcement of our EEO program” and “data concerning the entity’s workforce is no longer pertinent to the administration of our EEO outreach requirements.”

12. On June 4, 2004, the Commission released its *Third Report and Order* and *Fourth Notice of Proposed Rulemaking* reinstating the requirement for broadcasters and MVPDs to report employee data on Forms 395–B and 395–A, respectively. The Commission re-adopted the Note to § 73.3612 that it previously adopted in 2000 stating that the data collected would be used *exclusively* for the purpose of compiling industry employment trends and making reports to Congress, and not to assess any aspect of a broadcaster’s or MVPD’s compliance with the EEO rules. Although the Commission stated that it does not “believe that the filing of annual employment reports will unconstitutionally pressure entities to adopt racial or gender preferences in hiring,” it acknowledged the concerns

raised by broadcasters and sought comment in the *Fourth NPRM* on whether, moving forward, data reported on Form 395–B should be kept confidential.

13. In the *Fourth NPRM*, the Commission noted that its practice for more than thirty years before suspending collection of the Form 395–B in 2001 had been to make the Forms 395–B filed by broadcasters available for public inspection. The Commission also stated that there was no exemption from the disclosure requirements of the Freedom of Information Act (FOIA) that would have permitted the Commission to keep the Form’s data confidential, and therefore it did not specifically seek comment on this issue. The Commission noted, however, that the then-recently passed Confidential Information Protection and Statistical Efficiency Act of 2002 (CIPSEA) allows agencies to collect information for statistical purposes under a pledge of confidentiality. The *Fourth NPRM* noted that, if an agency collects information pursuant to CIPSEA under a pledge of confidentiality, the information is exempt from release under FOIA and may not be disclosed in an identifiable form for any non-statistical purpose without the informed consent of the respondent. The *Fourth NPRM* therefore sought comment on whether CIPSEA could apply to the Form 395–B and whether changing the Commission’s approach of making the information public would be consistent with section 334 of the Act. These issues remain unresolved, and to date, the collection of employee data from broadcast stations or MVPDs has not recommenced.

14. *Discussion:* As discussed above, this FNPRM seeks to refresh the record with respect to the questions raised in the 2004 *Fourth NPRM* and specifically asks for any additional input on the outstanding issue of whether employee data reported by broadcast licensees on Forms 395–B can or should be kept confidential and/or on a non-station-attributable basis. As detailed below, there are a number of statutes, regulations, and legal precedent relevant to the issue, as well as technical concerns regarding the collection and maintenance of the data. In exploring these issues, we seek to balance our statutory obligation under section 334(a) of the Act to collect pertinent employment data with the guidance provided by the D.C. Circuit’s rulings in *Lutheran Church* and *MD/DC/DE Broadcasters*, which place limits on how data regarding the racial, ethnic, and gender make-up of a licensee’s workforce may be used in the regulatory



context. We seek comment on these and other relevant issues. We note that the Commission has broad authority under the Act to collect information to carry out its responsibilities and prepare reports to inform Congress and the public.

15. Importantly, neither *Lutheran Church nor MD/DC/DE Broadcasters* invalidated the Congressionally mandated data collection of employment data or making the data available to the public. Rather, the courts vacated certain rules based on how the Commission used employment data to assess EEO compliance, but neither court ruled that simply collecting and making the data public is unconstitutional. Nor did the courts address the constitutionality of the Form 395-B itself, or the requirement that the Commission collect employee data using the Form 395-B that would be available to the public. Given the passage of time, we seek to update the record to better inform the Commission's consideration of these matters as they may bear on the collection and permissible use of this required data collection. Specifically, we seek to refresh the now sixteen-year-old record by encouraging commenters to provide any new, innovative, and different suggestions for collecting and handling employment information on Form 395-B.

16. Broadcasters have expressed concern previously that the collection of employment data on a station-attributed basis and its access by Commission staff and, in particular, release to the public will "pressure" stations to adopt race- or gender-based hiring policies in contravention of the D.C. Circuit's decisions. Since the Commission last sought comment on this issue, have there been any relevant developments in the public disclosure of employment data? For example, do broadcast licensees, either themselves or through third parties, now make station-attributed employment data available to the public, despite suspension (but not repeal) of our reporting requirements? If so, how prevalent is the practice? And if some, but not all, stations are releasing such information to the public, how should that impact our consideration of the issue of confidentiality?

17. To the extent that broadcasters are concerned that the Commission or the public might use employment data against stations as a basis for audits or to file petitions to deny, should the Commission take any additional steps to ensure that the employment data it is required to collect will be used only for its stated purposes (*i.e.*, analyzing

industry trends and making reports to Congress)? Are there other appropriate purposes aside from official Commission actions that we should consider? What are the public interest benefits of making the information publicly available? What impact, if any, should the requirement in the Act that MVPDs make their employment reports "available for public inspection" at their facilities have on our consideration of whether broadcasters must also make their employment data available for public inspection?

18. Recognizing that these data have historically been made publicly available on a station-attributed basis, we seek comment on the benefits of continuing to do so. In particular, we ask commenters about specific circumstances in which public availability of Form 395-B would be beneficial to the public interest or helpful to the Commission, Congress, and industry observers. If we decide to collect and make this data available publicly on a station-attributed basis, how should we go about doing so? Moreover, given that the Act explicitly requires MVPDs to make their employment reports "available for public inspection" at their facilities, would it make sense for the Commission to harmonize the treatment of employment data from broadcasters with that of MVPDs and require Form 395-B be publicly available? If not, what purpose would be served by treating broadcasters and MVPDs differently for purposes of EEO data collection? To the extent broadcasters can provide appropriate grounds for treating Form 395-B data as confidential, we also seek comment on specific filing approaches that would enable the Commission to collect and maintain Form 395-B employee data confidentially. In particular, if the Commission were to collect employment data confidentially, we seek input on collection mechanisms that could segregate the employment data from any station or employment unit identifying information, thereby allowing the data to be filed on a non-station-attributable basis while at the same time capturing whether a particular entity or station has complied with the annual reporting requirement. For example, could the completed Form 395-B be collected in such a way that the employment data would be filed separately from the station/employment unit identifying information? We note that the Commission previously had raised concerns about a similar filing approach almost twenty years ago, particularly with regard to FOIA and the

Federal Records Act (FRA). In that case, however, the Commission was considering an approach where it would receive completed paper filings and then "tear off" the station information from the employment data. We ask commenters to consider whether an electronic filing approach would raise concerns under either FOIA or the FRA if information were collected or maintained in a separated fashion. For example, how could the Commission ensure that the separation of station identifying information and employment data will not prevent the identification of employee data relating to a specific station if the Commission was required to produce information pursuant to a FOIA request?

19. The Commission also previously expressed concerns about the public's and its own inability to connect data with the station filing the data, were it to adopt a completely anonymous filing methodology. Specifically, the Commission noted that an anonymous filing approach could impede it from contacting the licensee if there were problems with the data. We invite comment on how we might address that concern. Further, how would we conduct audits of compliance with the Form 395-B annual filing requirement if Form 395-B is not filed on a station-attributable basis? In such a case, should we require each filer to retain a copy of their filings in order to present them to Commission staff in case of an audit to verify the submission of the report and the accuracy of the data submitted? To the extent data submitted in response to an audit can be obtained under FOIA, does that undermine the goal of this separation regime? Alternatively, would a certification by the licensee, for example on the FCC Form 396-B Broadcast Equal Employment Opportunity Program Report or the FCC Form 303-S License Renewal, attesting to the submission of the required annual Form 395-B be sufficient for tracking compliance with the annual filing of a Form 395-B for a particular station?

20. We also seek comment on any implementation issues that might arise from either an approach in which the Form 395-B is filed and maintained completely anonymously, or where station-specific information is available to the Commission but not the public. What technical issues, from both the station and the Commission perspective, would need to be addressed to ensure that the employment data cannot in any way be linked to the individual licensee who filed the data, by either Commission staff or others? We also welcome any examples of similar filing approaches that have been established,

either in the private or public sector, and the benefits or drawbacks of using such systems.

21. We further invite comment on whether any potential changes to the collection of this information or Form 395-B would be consistent with the directive in section 334(a) of the Act, which states that the Commission “shall not revise . . . the regulations concerning equal employment opportunity as in effect on September 1, 1992 (47 CFR 73.2080)” as they pertain to TV stations or the “forms used by such licensees to report pertinent employment data.” What impact does this statutory language have on potential revisions to Form 395-B, including on the ability of the Commission to modify the Form’s public filing requirements? To the extent commenters believe that the language of section 334(a) allows for some changes in the format of the Form 395-B or the manner in which the employment data is collected as applied to broadcast licensees, please specify.

22. Additionally, we seek comment on how we should interpret the phrase “pertinent employment data” as used in section 334(a)(2). Should the term “pertinent employment data” be read in context as data related to administration and enforcement of the EEO regulations, considering that section 334(a)(1) codified “the regulations concerning equal employment opportunity as in effect on September 1, 1992”? The Commission no longer uses station-specific employment data to screen licensee renewal applications or assess any aspect of a broadcaster’s compliance with the Commission’s EEO rules as a result of the D.C. Circuit’s decisions. To what extent is station-specific data necessary to carry out our statutory and regulatory obligations, including to monitor industry employment trends and report to Congress. How can the Commission continue to meet these obligations to collect EEO data from broadcast station licensees and permittees without requiring station-specific data? Is station-specific data no longer “pertinent” employment data within the meaning of section 334(a)(2) because the data are no longer used to screen licensee renewal applications or assess EEO compliance, thereby allowing us to revise the forms to accommodate the filing of information on a non-station-specific basis? Does the permission granted to the Commission in section 334(c) to make technical revisions to “the regulations described in subsection (a)” provide sufficient authority to revise the Form 395-B or the filing procedures? In particular, section 334(c) contemplates that the Commission may make “nonsubstantive

technical or clerical revisions in such regulations,” but says nothing about FCC forms. Assuming the authority in subsection (c) extends to Form 395-B, would the revisions contemplated constitute “nonsubstantive technical or clerical revisions” and would they be necessary “to reflect changes in technology, terminology, or Commission organization”? If not, what impact would this have on the Commission’s ability to make changes to the Form 395-B and the collection of the relevant employment data? In addition, the Commission previously noted that it could be “called upon to provide trend data based on markets, size of stations, services, or other criteria” that could not be reconstructed from data submitted on a non-station-attributable basis. Would the collection of other types of information from filers lead to a more useful data set and enable meaningful tracking of industry trends?

23. In the *Third Report and Order*, the Commission noted that it had previously sought to track the racial classification standards employed by the Equal Employment Opportunity Commission (EEOC), which in turn applies the classifications established by the Office of Management and Budget (OMB). Given the passage of time, it is possible that the racial classifications reflected on the FCC Form 395-B are no longer entirely consistent with the classifications employed by the current EEO-1 form. Accordingly, we seek comment on the desirability of harmonizing the racial classifications employed on the Form 395-B with the EEOC’s current EEO-1 form, and any related issues. In addition, although we note that the Commission has made such changes to the Form 395-B in the past, consistent with the discussion above, we seek comment on whether the form can be revised to reflect any updated racial classifications consistent with section 334 of the Act. We note that although the filing of the Form 395-B has been suspended since 2001, OMB has approved the information collection through June 2023, subject to the Commission’s decision resolving the data confidentiality issues. OMB Control Number History, OMB Control Number: 3060-0390, [https://www.reginfo.gov/public/do/PRAViewICR?ref\\_nbr=202004-3060-047](https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202004-3060-047) (last visited Feb. 16, 2021). Thus, the Commission must consult further with OMB prior to re-implementing the data collection.

24. As part of refreshing the record, we also seek comment on whether the Form 395-B data could be collected pursuant to the CIPSEA under a pledge of confidentiality. While the

Commission previously sought comment on the applicability of CIPSEA in 2004, at that time the statute was barely two years old. Given the passage of time and our desire to obtain as complete a record as possible, we seek comment anew on the applicability of CIPSEA. Could the Commission or one of its subordinate offices or bureaus qualify as a federal “statistical agency or unit” as defined in CIPSEA and in accordance with the various directives issued by the Office of Management and Budget over the years? To the extent the Commission, as a non-statistical agency, could avail itself of CIPSEA’s provision protecting data from public disclosure, we note CIPSEA imposes various limitations and requirements on the confidential collection of data by a non-statistical agency that could significantly impede the Commission’s ability to collect and use the data, including the requirement for direct acquisition of data by Commission employees without the use of contractors. Because the Commission relies on information technology contractors to assist filers with questions and to compile reports and other information based on data in its forms, we question whether the Commission can comply with this requirement. We seek comment on these issues.

25. Moreover, we note that, in the intervening years since the Form 395-B was suspended, additional regulations or guidance may have arisen that could affect our analysis and the restoration of this data collection. In particular, we note that the Foundations for Evidence Based Policymaking Act of 2018 (Evidence Act) would appear to require that the Commission publish data it collects in an open format if the data collection mechanism [is] created on or after January 14, 2019, the Act’s date of enactment, and absent a statutory exemption prohibiting the disclosure of the information. Accordingly, we seek comment on whether this recently enacted statute would require the publication of employment data collected on Form 395-B. If the Commission were to reinstate the Form 395-B data collection, with or without modifications to the form or filing system, would this constitute a new data collection mechanism subject to the Evidence Act? And if so, would any existing FOIA exemptions apply to this data collection? We seek comment on the applicability of FOIA exemptions in general, including any recent developments in FOIA case law applicable to Form 395-B data.

26. Finally, given the significant passage of time since the FCC Form

395–B filing requirement was suspended, are there any other issues or developments that we should consider at this time? We also seek comment on the attendant costs and benefits of any proposals advanced in response to this item.

### Procedural Matters

27. *Ex Parte Rules—Permit-But-Disclose*. This proceeding shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules.

28. *Initial Regulatory Flexibility Act Analysis*. The Regulatory Flexibility Act of 1980, as amended (RFA), requires that a regulatory flexibility analysis be prepared for notice and comment rulemaking proceedings, unless the agency certifies that “the rule will not, if promulgated, have a significant

economic impact on a substantial number of small entities.” The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act. A “small business concern” is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

29. With respect to this FNPRM, an Initial Regulatory Flexibility Analysis (IRFA) under the RFA appears below. Written public comments are requested on the IRFA and must be filed in accordance with the same filing deadlines as comments on this Notice of Proposed Rulemaking, with a distinct heading designating them as responses to the IRFA. In addition, a copy of this FNPRM and the IRFA will be sent to the Chief Counsel for Advocacy of the SBA and will be published in the **Federal Register**.

30. *Paperwork Reduction Act*. This document seeks comment on whether the Commission should adopt modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens and pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13, invites the general public and the Office of Management and Budget (OMB) to comment on these information collection requirements. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

### Initial Regulatory Flexibility Act Analysis

31. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and rules proposed in this Further Notice of Proposed Rulemaking (FNPRM). The Commission requests written public comments on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments specified in the Further Notice. The Commission will send a copy of the Further Notice, including this IRFA, to the Chief Counsel for

Advocacy of the Small Business Administration (SBA). In addition, the Further Notice and IRFA (or summaries thereof) will be published in the **Federal Register**.

### A. Need for, and Objectives of, the Proposed Rules

32. The FNPRM seeks to refresh the record regarding the Commission’s annual collection of broadcaster workforce composition data by race and gender on FCC Form 395–B. (Form 395–B, the broadcast station Annual Employment Report, can be found at <https://transition.fcc.gov/Forms/Form395B/395b.pdf>.) The filing of this Form was suspended in 2001 in the wake of a D.C. Circuit decision vacating certain aspects of the Commission’s Equal Employment Opportunity requirements. While the Commission adopted revised regulations regarding its data collection to prevent use of the data in assessing compliance with its general EEO rules and possibly exerting pressure on broadcasters to hire women and minorities, and subsequently obtained OMB approval for collecting data on updated Form 395–B, collection of the data was delayed until issues regarding confidentiality of the data were resolved. To date, those issues remain unresolved. Accordingly, the FNPRM seeks to refresh the record regarding the collection of broadcaster workforce composition data, and asks for further input on the legal, logistical, and technical issues surrounding FCC Form 395–B.

33. Specifically, the FNPRM seeks to refresh the record with additional input on the outstanding issue of whether employee data reported by broadcasters can or should be kept confidential and/or on a non-attributable basis, or whether there are benefits from disclosure. Among other issues, the FNPRM asks whether there have been relevant developments in the public disclosure of employment data since the Commission last sought comment on collecting these data, including whether broadcast licensees now make station-attributed employment data available to the public, how prevalent this practice may be, and how such practices should impact our consideration of the issue of confidentiality.

34. The FNPRM asks, to the extent that broadcasters are concerned that the Commission or the public might use employment data against stations as a basis for audits or to file petitions to deny license applications, whether it should take any additional steps to ensure that the employment data it is required to collect will be used only for their stated purposes (*i.e.*, analyzing

industry trends and making reports to Congress)? The FNPRM asks whether there are other appropriate purposes of collecting data aside from official Commission actions that it should consider, and what public benefits derive from making the information publicly available. The FNPRM also asks what impact the Act's requirement that MVPDs make their employment reports "available for public inspection" at their facilities have on its consideration of whether broadcasters must also make their employment data available for public inspection.

35. Recognizing that these data have historically been made publicly available on a station-attributed basis, the FNPRM seeks comment on the benefits of continuing to do so. The FNPRM asks commenters to describe circumstances in which public availability of Form 395-B would be beneficial to the public interest or helpful to the Commission, Congress, and industry observers. The FNPRM asks how the Commission should go about making data publicly available on a station-attributed basis if it decides to continue doing so. To the extent broadcasters can provide appropriate grounds for treating Form 395-B data as confidential, the FNPRM seeks comment on specific filing approaches that would enable the Commission to collect and maintain Form 395-B employee data confidentially. The FNPRM asks commenters to consider whether an electronic filing approach would raise concerns under either FOIA or the Federal Records Act (FRA) if information were collected or maintained in a separated fashion.

36. The FNPRM invites comment on how the Commission might address any concerns that an anonymous filing approach could impede it from contacting the licensee if there were problems with the data or from conducting compliance audits. The FNPRM also seeks comment on any implementation issues that might arise from either an approach in which the Form 395-B is filed and maintained completely anonymously, or where station-specific information is available to the Commission but not the public.

37. The FNPRM also invites comment on whether any potential changes to the collection of this information or Form 395-B would be consistent with the directive in section 334(a) of the Act, which states that the Commission "shall not revise . . . the regulations concerning equal employment opportunity as in effect on September 1, 1992 (47 CFR 73.2080)" as they pertain to TV stations or the "forms used by such licensees to report pertinent

employment data." As part of refreshing the record, the FNPRM asks whether the Commission or one of its subordinate offices or bureaus qualify as a federal "statistical agency or unit" as defined in CIPSEA and in accordance with the various directives issued by the Office of Management and Budget since passage of CIPSEA in 2002. The FNPRM also seeks comment on whether the Foundations for Evidence-Based Policymaking Act would require the publication of employment data collected on Form 395-B. Finally, given the significant passage of time since the FCC Form 395-B filing requirement was suspended, the FNPRM seeks comment on any other issues or developments that the Commission should consider and on the attendant costs and benefits of any proposals advanced in response to the FNPRM.

#### *B. Legal Basis*

38. The proposed action is authorized under sections 1, 2(a), 4(i), 4(j), 4(k), 303, 334, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152(a), 154(i), 154(k) 303, 334, and 403.

#### *C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply*

39. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rule revisions, if adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act (SBA). A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. Below, we provide a description of such small entities, as well as an estimate of the number of such small entities, where feasible.

40. *Television Broadcasting.* This U.S. Economic Census category "comprises establishments primarily engaged in broadcasting images together with sound." These establishments operate television broadcast studios and facilities for the programming and transmission of programs to the public. These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule.

Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA has created the following small business size standard for such businesses: Those having \$41.5 million or less in annual receipts. The 2012 Economic Census reports that 751 firms in this category operated in that year. Of that number, 656 had annual receipts of \$25 million or less, 25 had annual receipts between \$25 million and \$49,999,999 and 70 had annual receipts of \$50 million or more. Based on these data, we estimate that the majority of commercial television broadcast stations are small entities under the applicable size standard.

41. Additionally, the Commission has estimated the number of licensed commercial television stations to be 1,371. Of this total, 1,265 stations (or 92%) had revenues of \$41.5 million or less in 2020, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) on February 9, 2021, and therefore these stations qualify as small entities under the SBA definition. In addition, the Commission estimates the number of noncommercial educational stations to be 388. The Commission does not compile and does not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities. There are also 388 Class A stations. Given the nature of this service, the Commission presumes that all of these stations qualify as small entities under the applicable SBA size standard.

42. *Radio Stations.* This U.S. Economic Census category "comprises establishments primarily engaged in broadcasting aural programs by radio to the public." Programming may originate in the establishment's own studio, from an affiliated network, or from external sources. The SBA has created the following small business size standard for such businesses: Those having \$41.5 million or less in annual receipts. Economic Census data for 2012 show that 2,849 firms in this category operated in that year. Of that number, 2,806 operated with annual receipts of less than \$25 million per year, 17 with annual receipts between \$25 million and \$49,999,999 million and 26 with annual receipts of \$50 million or more. Based on these data, we estimate that the majority of commercial radio broadcast stations were small under the applicable SBA size standard.

43. The Commission has estimated the number of licensed commercial AM radio stations to be 4,551 and the number of commercial FM radio stations to be 6699 for a total of 11,250

commercial stations. Of this total, 11,245 stations (or 99%) had revenues of \$41.5 million or less in 2020, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) on February 9, 2021, and therefore these stations qualify as small entities under the SBA definition. In addition, there were 4195 noncommercial educational FM stations. The Commission does not compile and does not have access to information on the revenue of NCE radio stations that would permit it to determine how many such stations would qualify as small entities.

44. In assessing whether a business concern qualifies as small under the above definition, business (control) affiliations must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, an element of the definition of "small business" is that the entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific radio or television station is dominant in its field of operation. Accordingly, the estimate of small businesses to which the proposed rules may apply does not exclude any radio or television station from the definition of small business on this basis and is therefore possibly over-inclusive.

#### *D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements*

45. In this section, we identify the reporting, recordkeeping and other compliance requirements contained in the FNPRM and consider whether small entities are affected disproportionately by any such requirements. The FNPRM proposes no new reporting, recordkeeping or compliance requirements, only seeks to refresh the record on resuming, after a suspension, collection of broadcaster workforce composition data on FCC Form 395-B. The FNPRM also seeks to refresh the record to resolve an issue outstanding since 2004 on whether the Commission can or should change its handling of the data to keep it confidential. The FNPRM also asks whether and how more recently enacted statutes affect its handling of broadcaster employee composition data. If the FNPRM is adopted, broadcasters will simply resume filing Form 395-B and the FCC may change the way it handles data contained in Form 395-B. Because the

FNPRM contains no new reporting or recordkeeping obligations and proposes only resuming filing of an existing Form, the reporting, recordkeeping and other compliance requirements of small entities will not change from such requirements under existing rules, and the burden imposed by the FNPRM will be no greater than under current rules. Additionally, stations with four or less full-time employees are exempt from filing the report. Therefore, because no new requirements are imposed and small stations are exempt, the Commission concludes that small entities will not be disproportionately affected by the FNPRM.

#### *E. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered*

46. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

47. This FNPRM seeks to refresh the record regarding the Commission's annual collection of broadcaster workforce composition data by race and gender on FCC Form 395-B. It would lead only to resumption of this data collection and would impose no new requirements for which the Commission can consider alternatives that would minimize the economic burden on small entities. Further, as detailed in the FNPRM, section 334(a) of the Act states that the Commission shall not revise either the EEO regulations in effect as of September 1992 as such regulations apply to television broadcast station licensees or permittees or the "forms used by such licensees to report pertinent employment data."

#### *F. Federal Rules That May Duplicate, Overlap, or Conflict With the FNPRM*

48. None.

#### **Ordering Clauses**

49. Accordingly, *it is ordered* that, pursuant to the authority found in sections 1, 4(i), 4(j), 4(k), 303, 334, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 154(k), 303, 334, and 403, this

Further Notice of Proposed Rulemaking *is adopted*.

50. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Act Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

**Marlene Dortch,**

*Secretary.*

[FR Doc. 2021-18665 Filed 8-30-21; 8:45 am]

**BILLING CODE 6712-01-P**

## **GENERAL SERVICES ADMINISTRATION**

### **48 CFR Parts 517, 538, and 552**

**[GSAR Case 2020-G509; Docket No. GSA-GSAR 2021-0015; Sequence No. 1]**

**RIN 3090-AK19**

### **General Services Administration Acquisition Regulation (GSAR); Extending Federal Supply Schedule Orders Beyond the Contract Term**

**AGENCY:** Office of Acquisition Policy, General Services Administration (GSA).

**ACTION:** Proposed rule.

**SUMMARY:** GSA is proposing to amend the General Services Administration Acquisition Regulation (GSAR) to incorporate existing internal Federal Supply Schedule (FSS) policy concerning the option to extend the term of the contract and performance of orders beyond the term of the base FSS contract.

**DATES:** Interested parties should submit written comments to the Regulatory Secretariat Division at the address shown below on or before November 1, 2021 to be considered in the formation of the final rule.

**ADDRESSES:** Submit comments in response to GSAR Case 2020-G509 to: *Regulations.gov*: <https://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by searching for "GSAR Case 2020-G509". Select the link "Comment Now" that corresponds with GSAR Case 2020-G509. Follow the instructions provided at the "Comment Now" screen. Please include your name, company name (if any), and "GSAR Case 2020-G509" on your attached document. If your comment cannot be submitted using <https://www.regulations.gov>, call or email the points of contact in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

*Instructions:* Please submit comments only and cite GSAR Case 2020–G509 in all correspondence related to this case. Comments received generally will be posted without change to <https://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check <https://www.regulations.gov> approximately two to three days after submission to verify posting.

**FOR FURTHER INFORMATION CONTACT:** Mr. Thomas O’Linn, Procurement Analyst, at [gsarpolicy@gsa.gov](mailto:gsarpolicy@gsa.gov) for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755 or [GSARegSec@gsa.gov](mailto:GSARegSec@gsa.gov). Please cite GSAR Case 2020–G509.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

As a part of GSA’s comprehensive review of the regulatory requirements in the GSAR, GSA identified supplemental internal GSA policy related to the FSS program that should be placed within the GSAR. Specifically, GSA is seeking to incorporate into the GSAR FSS clause I–FSS–163, Option to Extend the Term of the Contract (Evergreen), and FSS policy concerning standard fill-in information for paragraph (d) of FAR clause 52.216–22, Indefinite Quantity.

**II. Authority for This Rulemaking**

Title 40 of the United States Code (U.S.C.) Section 121 authorizes GSA to issue regulations, including the GSAR, to control the relationship between GSA and contractors.

**III. Discussion and Analysis**

GSA is amending the GSAR to revise subpart 517.2 for purposes of clarifying requirements contained in 517.207. Additionally, GSA is revising subpart 538.2 for purposes of revising the title of section 538.270 and adding paragraphs (d)(36) and (e) to section 538.273. Lastly, GSA is revising subpart 552.2 to add the following new GSAR clause: 552.238–116, Option to Extend the Term of the FSS Contract. This new GSAR clause incorporates FSS clause, I–FSS–163, Option to Extend the Term of the Contract (Evergreen).

FSS clause I–FSS–163, Option to Extend the Term of the Contract (Evergreen), has been in use by the FSS program since 2000. This clause is currently implemented through internal GSA policy and incorporated into FSS solicitations and contracts. Incorporating this clause into the GSAR allows for greater transparency and ensures FSS regulations are in one area (*i.e.*, part 538).

The internal policy concerning standard fill-in information for paragraph (d) of FAR clause 52.216–22, Indefinite Quantity, has been in use by the FSS program since 2016. The use of standard fill-in information supports the administration of orders issued during the FSS contract ordering period that remain active beyond expiration of the FSS contract ordering period. This requirement is currently implemented through internal GSA policy and incorporated into FSS solicitations and contracts. Incorporating this requirement into the GSAR allows for greater transparency and ensures FSS regulations are in one area (*i.e.*, part 538).

To support the incorporation of these internal GSA policies to the GSAR the following amendments to the GSAR are being made: The title of section 538.270 is being revised from “Evaluation of Federal Supply Schedule (FSS) offers” to “Solicitation, evaluation and award of Federal Supply Schedule (FSS) contracts”; GSAR clause 552.238–116, Option to Extend the Term of the FSS Contract, is being added (*i.e.*, this clause incorporates and will replace the existing FSS clause I–FSS–163, Option to Extend the Term of the Contract (Evergreen)); adding paragraph (d)(36) to GSAR section 538.273 for purposes of incorporating the prescription for 552.238–116, Option to Extend the Term of the FSS Contract; adding paragraph (e) to GSAR section 538.273 for purposes of incorporating the standard fill-in requirement for paragraph (d) of FAR clause 52.216–22, Indefinite Quantity; and making technical changes to 517.207 for purposes of clarity and conformity.

**IV. Executive Orders 12866 and 13563**

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rulemaking has been reviewed and determined by Office of Management and Budget (OMB) not to be a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

**V. Congressional Review Act**

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a “major rule” may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rulemaking has been reviewed and determined by OMB not to be a “major rule” under 5 U.S.C. 804(2).

**VI. Regulatory Flexibility Act**

GSA does not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*

Therefore, an Initial Regulatory Flexibility Analysis has not been performed. GSA invites comments from small business concerns and other interested parties on the expected impact of this proposed rule on small entities.

GSA will also consider comments from small entities concerning the existing regulations in subparts affected by the rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C 610 (GSAR Case 2020–G509), in correspondence.

**VII. Paperwork Reduction Act**

This rulemaking does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

**List of Subjects in 48 CFR Parts 517, 538, and 552**

Government procurement.

**Jeffrey A. Koses,**

*Senior Procurement Executive, Office of Acquisition Policy, Office of Government-wide Policy, General Services Administration.*

Therefore, GSA proposes amending 48 CFR parts 517, 538, and 552 as set forth below:

- 1. The authority citation for 48 CFR parts 517, 538, and 552 continues to read as follows:

**Authority:** 40 U.S.C. 121(c).

**PART 517—SPECIAL CONTRACTING METHODS**

■ 2. Amend section 517.207 by revising the introductory text and paragraph (a) to read as follows:

**517.207 Exercise of options.**

In addition to the requirements of FAR 17.207, the contracting officer shall:

(a) Document the contract file with the rationale for exercising the contract option to extend the period of performance if the contractor's performance under the contract is less than satisfactory.

\* \* \* \* \*

**PART 538—FEDERAL SUPPLY SCHEDULE CONTRACTING**

■ 3. Revise section 538.270 heading to read as follows:

**538.270 Solicitation, evaluation, and award of Federal Supply Schedule (FSS) contracts.**

■ 4. Amend section 538.273 by adding paragraphs (d)(36) and (e) to read as follows:

**538.273 FSS solicitation provisions and contract clauses.**

\* \* \* \* \*

(d) \* \* \*

(36) 552.238–116, Option to Extend the Term of the FSS Contract. Use in all FSS solicitations and contracts.

(e) Insert the following fill-in information within the blank of paragraph (d) of FAR clause 52.216–22, Indefinite Quantity: “the completion of customer order, including options, 60 months following the expiration of the FSS contract ordering period”.

**PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

■ 5. Add section 552.238–116 to read as follows:

**552.238–116 Option to Extend the Term of the FSS Contract.**

As prescribed in 538.273(d)(36), insert the following clause:

Option To Extend the Term of the FSS Contract (Date)

(a) The Government may require continued performance of this contract for an additional 5 year period. This option may be exercised up to three times.

(b) The Contracting Officer may exercise the option by providing written notice to the Contractor 30 days before the contract expires.

(End of clause)

[FR Doc. 2021–18517 Filed 8–30–21; 8:45 am]

BILLING CODE 6820–61–P

**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Part 17**

[Docket No. FWS–HQ–ES–2019–0014; 4500030113]

RIN 1018–BD03

**Endangered and Threatened Wildlife and Plants; Threatened Status With Section 4(d) Rule for the Dolphin and Union Caribou and 12-Month Finding for the Peary Caribou**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; 12-month finding.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, announce a 12-month finding on a petition to list the Peary caribou (*Rangifer tarandus pearyi*) (a caribou subspecies) and the Dolphin and Union caribou (*Rangifer tarandus groenlandicus x pearyi*) as endangered or threatened subspecies under the Endangered Species Act of 1973, as amended (Act). Both Peary caribou and Dolphin and Union caribou are native only to Canada. After a review of the best available scientific and commercial information, we find that it is not warranted at this time to add the Peary caribou to the List of Endangered and Threatened Wildlife. We find that listing the Dolphin and Union caribou as a Distinct Population Segment (DPS) of the barren-ground caribou subspecies (*Rangifer tarandus groenlandicus*) is warranted. Accordingly, we propose to list this DPS with a rule issued under section 4(d) of the Act (“4(d) rule”). To ensure that subsequent rulemaking resulting from this proposed rule is as accurate and effective as possible, we are soliciting information from the public, other governmental agencies, the Government of Canada and its provincial governments, the scientific community, industry, and any other interested parties.

**DATES:** We will accept comments received or postmarked on or before November 1, 2021. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. Eastern Time on the closing date. We must receive requests for public hearings, in writing, at the address shown in **FOR FURTHER INFORMATION CONTACT** by October 15, 2021

**ADDRESSES:** You may submit comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: <http://www.regulations.gov>. In the Search box, enter the docket number or RIN for this rulemaking (presented above in the document headings). For best results, do not copy and paste either number; instead, type the docket number or RIN into the Search box using hyphens. Then, click on the Search button. On the resulting page, in the panel on the left side of the screen, under the Document Type heading, check the Proposed Rule box to locate this document. You may submit a comment by clicking on “Comment.”

(2) *By hard copy:* Submit by U.S. mail to: Public Comments Processing, Attn: FWS–HQ–ES–2019–0014; U.S. Fish and Wildlife Service; MS: JAO/3W; 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send comments only by the methods described above. We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see *Public Comments*, below, for more information).

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Maclin, Branch of Delineating and Foreign Species, Ecological Services Program, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: ES, Falls Church, VA 22041; telephone 703–358–2646. If you use a telecommunications device for the deaf, call the Federal Relay Service at 800–877–8339.

**SUPPLEMENTARY INFORMATION:**

**Executive Summary**

*Why we need to publish a rule.* Under the Endangered Species Act of 1973, as amended (“Act,” 16 U.S.C. 1531 *et seq.*), if we determine that a species warrants listing as an endangered or threatened species, we are required to promptly publish a proposal in the **Federal Register** and make a determination on our proposal within 1 year.

*What this document does.* We find that listing the Peary caribou subspecies is not warranted, and we propose to list the Dolphin and Union caribou DPS as a threatened species with a rule under section 4(d) of the Act.

*The basis for our action.* Under the Act, we may determine that a species is an endangered or threatened species because of any of five factors, alone or in combination: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued

existence.



existence. We have determined that the Peary caribou is not in danger of extinction or likely to become so in the foreseeable future throughout all or a significant portion of its range. We have determined that the Dolphin and Union caribou DPS is likely to become endangered in the foreseeable future throughout all of its range, meeting the definition of a threatened species.

Both caribou subspecies exist in harsh environments to which they have adapted over millennia. These harsh environmental conditions combined with the fact that they live on islands from which they make seasonal migrations across sea ice in order to find adequate nutrition combine to exert pressure on both the Peary caribou subspecies and Dolphin and Union caribou DPS. The major threats that impacted both the Peary caribou and Dolphin and Union caribou are the cumulative effects of climate change and other changes brought about by climate change. While these two subspecies face similar threats, the magnitude of threats they face is different between the two subspecies, including with respect to the following threats:

- Long-term decline in sea ice;
- Increase in icing events on land;
- Hunting;
- Outbreaks of parasites or disease;
- Disturbance due to development, oil and gas exploration, and shipping; and
- Increases in shipping traffic.

The Peary caribou is found farther to the north of the Canadian Arctic while the Dolphin and Union caribou is located to the south. Certain activities, such as shipping and oil and gas exploration, are more concentrated in the southern portion of the Canadian Arctic, thus affecting the Dolphin and Union caribou more strongly than the Peary caribou. Furthermore, models of sea-ice loss projected that the decline in sea ice in the lower Canadian Arctic will occur earlier and faster than the high Arctic. The differences in degree of threats result in the population trends for these two subspecies moving in opposite directions. Although the Peary caribou has experienced wide fluctuation in its population, the subspecies has experienced an increase of about 150 percent within the past two decades (COSEWIC 2015, pp. 42–43). In contrast, after reaching a high in 1997, the Dolphin and Union caribou population has steadily declined.

We are also proposing a section 4(d) rule. When we list a species as threatened, section 4(d) of the Act (16 U.S.C. 1533(d)) allows us to issue regulations that are necessary and

advisable to provide for the conservation of the species. Accordingly, we are proposing a 4(d) rule for the Dolphin and Union caribou that would, among other things, prohibit import, export, interstate or foreign commerce in the course of commercial activity, sale or offer for sale, or to attempt to engage in any such conduct. Exceptions are provided for import of personal sport-hunted trophies legally hunted in and exported from Canada. We may issue permits to carry out otherwise prohibited activities, including those described above, involving threatened wildlife under certain circumstances, such as for scientific purposes, or the enhancement of propagation or survival of the subspecies in the wild.

*Peer review.* In accordance with our joint policy on peer review published in the **Federal Register** on July 1, 1994 (59 FR 34270), and our August 22, 2016, memorandum updating and clarifying the role of peer review of listing actions under the Act, we solicited the expert opinion of five appropriate and independent specialists for peer review of the Species Status Assessment that provides the biological basis for this proposed listing determination. The purpose of peer review is to ensure that our listing determinations are based on scientifically sound data, assumptions, and analyses. Their comments and suggestions can be found at [https://www.fws.gov/endangered/improving\\_ESA/peer\\_review\\_process.html](https://www.fws.gov/endangered/improving_ESA/peer_review_process.html).

Because we will consider all comments and information received during the comment period, our final determination may differ from this proposal. After considering comments and information we receive, we may conclude that the species is endangered instead of threatened, or we may conclude that the species does not warrant listing as either an endangered species or a threatened species. Such final decisions would be a logical outgrowth of this proposal, as long as we: (1) Base the decisions on the best scientific and commercial data available after considering all of the relevant factors; (2) do not rely on factors Congress has not intended us to consider; and (3) articulate a rational connection between the facts found and the conclusions made, including why we changed our conclusion.

#### Information Requested

We intend that any final action resulting from this proposed rule will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we request comments or

information from other concerned governmental agencies, including Canadian national and provincial governments, local indigenous people of Canada, the scientific community, industry, and any other interested parties concerning this proposed rule. We particularly seek comments concerning:

- (1) The species' biology, range, and population trends, including:
  - (a) Biological or ecological requirements of the species, including habitat requirements for feeding, breeding, and sheltering;
  - (b) Genetics and taxonomy of the two caribou entities; specifically, any genetic information that would help inform the taxonomic status of the Dolphin and Union caribou;
  - (c) Historical and current range including distribution patterns, particularly regarding their seasonal migrations;
  - (d) Historical and current population levels, and current and projected population trends; and
  - (e) Past and ongoing conservation measures for these species and/or their habitat.
- (2) Factors that may affect the continued existence of the species, which may include habitat destruction, modification, or curtailment, overutilization, disease, predation, the inadequacy of existing regulatory mechanisms, or other natural or manmade factors.

(3) Biological, commercial, trade, or other relevant data concerning any threats (or lack thereof) to this species and existing regulations that may be addressing those threats.

(4) Additional information concerning the historical and current status, range, distribution, and population size of this species, including the locations of any additional populations of this species.

(5) Information on regulations that are necessary and advisable to provide for the conservation of the Dolphin and Union caribou and that the Service can consider in developing a 4(d) rule for the species, particularly, information concerning the extent to which the 4(d) rule should prohibit any act prohibited by section 9(a)(1) or whether any exceptions should be provided from the prohibitions in the 4(d) rule.

Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include.

Please note that submissions merely stating support for, or opposition to, the action under consideration without providing supporting information, although noted, will not be considered



in making a determination, as section 4(b)(1)(A) of the Act directs that determinations as to whether any species is an endangered or a threatened species must be made “solely on the basis of the best scientific and commercial data available.”

You may submit your comments and materials concerning this proposed rule by one of the methods listed in

**ADDRESSES.** We request that you send comments only by the methods described in **ADDRESSES.**

If you submit information via <http://www.regulations.gov>, your entire submission—including any personal identifying information—will be posted on the website. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on <http://www.regulations.gov>.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on <http://www.regulations.gov>.

#### Public Hearing

Section 4(b)(5) of the Act provides for one or more public hearings on this proposal, if requested. Requests must be received by the date listed above in **DATES.** Such requests must be sent to the address shown in **FOR FURTHER**

**INFORMATION CONTACT.** If requested, we will schedule any such public hearings, and announce the dates, times, and places of those hearings, as well as how to obtain reasonable accommodations, in the **Federal Register** at least 15 days before the hearing. For the immediate future, we will provide these public hearings using webinars that will be announced on the Service’s website, in addition to the **Federal Register.** The use of these virtual public hearings is consistent with our regulation at 50 CFR 424.16(c)(3).

#### Previous Federal Actions

On September 15, 2009, we received a petition dated the same day from the International Fund for Animal Welfare (hereafter referred to as petitioner) requesting that two subspecies of caribou (*Rangifer tarandus*) be listed as endangered or threatened under the Act. These two subspecies are the Peary caribou (*R. t. pearyi*) and the Dolphin and Union caribou (*R. t. groenlandicus x pearyi*). On April 5, 2011, we published a “positive” 90-day finding that the petition presented substantial scientific or commercial information

indicating that listing both the Peary caribou subspecies and Dolphin and Union caribou subspecies as endangered or threatened may be warranted (76 FR 18701), and we initiated a status review of these two subspecies.

This document summarizes the status reviews for these two species under section 4(b)(3)(B) of the Act and publishes our findings. The actual assessments of each species (also called a species report) are available at <http://www.regulations.gov> in Docket No. FWS–HQ–ES–2019–0014. This document also includes the proposed rule to list the Dolphin and Union caribou Distinct Population Segment (DPS) of the barren-ground caribou subspecies as a threatened species with a 4(d) rule.

#### Supporting Documents

A species report was prepared for each species. The species reports represent compilations of the best scientific and commercial data available concerning the status of each species, including the impacts of past, present, and future factors (both negative and beneficial) affecting the species. The Service sent the species reports to five independent peer reviewers and received five responses.

#### I. Proposed Listing Determination—Peary Caribou

##### Background

##### Description

Peary caribou have relatively large, short hooves; square muzzles; short, rounded ears; and dense pale fur made of hollow hairs. Their fur is long and silky white in early winter and changes to a light brown/tan in the spring. In the summer, the coat is slate with a white stomach; legs are white with the flank having a pronounced frontal stripe. Both male and female caribou grow narrowly spreading antlers, although antlers may be absent in some females. Antler velvet is grey, and the antlers are bone-colored (COSEWIC 2004, pp. 9–10). Peary caribou have smaller bodies with shorter legs and faces when compared to the barren-ground caribou (*Rangifer tarandus groenlandicus*) on the North American mainland (COSEWIC 2015, p. 5).

##### Taxonomy

All caribou and reindeer worldwide are considered to be the same species (*Rangifer tarandus*) in the Order Artiodactyla (even-toed ungulates) and Family Cervidae (deer) (Integrated Taxonomic Information System (ITIS) 2013, unpaginated; Mountain Caribou Science Team 2005, p. 1; Smithsonian

National Museum of Natural History 2013, n.p.n.; COSEWIC 2011, p. 11). Although caribou and reindeer are referred to by different names based on geography and whether or not they are bred in captivity, they are able to interbreed and produce offspring (COSEWIC 2002, p. 9; Hummel and Ray, 2008, p. 31). In Europe, the common name for *Rangifer tarandus* is reindeer. In North America, the common name for the species is caribou; only the individuals bred in captivity are called reindeer (Cichowski et al. 2004, p. 224). For consistency, the term caribou will be used to refer to the species *Rangifer tarandus* in this document. According to the American Society of Mammalogists’ checklist of mammal species of the world and ITIS, 14 subspecies of caribou are currently recognized worldwide, including the subspecies Peary caribou, *Rangifer tarandus pearyi* (ITIS 2017, unpaginated).

Peary caribou were first taxonomically described in 1902. The first widely accepted classification below the species level of caribou, *Rangifer tarandus*, in North America was in 1961 (COSEWIC 2015, p. 5; COSEWIC 2011, pp. 11–12; Shackleton 2010, p. 3; Banfield 1961, entire).

Since the 1960s, much has been learned about caribou ecology, distribution, and genetics that has revealed substantial diversity within the initial 1961 subspecies classifications (Miller et al. 2007, p. 16). Many have proposed alternative classifications to account for variability within and among the various subspecies of caribou. Populations were described with terms such as “ecotypes” based on migration patterns and calving strategies, and adaptations to a certain set of environmental conditions (Bergerud 1996, entire, as cited in COSEWIC 2011, p. 13). This later classification has caused confusion because there is no universally accepted list of caribou ecotypes or criteria to distinguish them (COSEWIC 2011, pp. 12–13).

In 1979, an independent advisory committee of wildlife experts, Committee on the Status of Endangered Wildlife in Canada (COSEWIC), assessed the status of Peary caribou, *Rangifer tarandus pearyi*, and what is now known as the Dolphin and Union caribou as a single subspecies for purposes of Canada’s Species at Risk Act (SARA). Following the assessment, COSEWIC assigned the species a status of threatened under SARA. A threatened species under SARA is a wildlife species that is likely to become endangered if nothing is done to reverse

the factors leading to its extirpation or extinction (COSEWIC 2016, pp. 85–86). In 1991, this entity was split up and assessed as three separate populations: Banks Island (Endangered), High Arctic (Endangered), and Low Arctic (Threatened). In May 2004, these three populations were deactivated and combined into a single entity, the Peary caribou. The Peary caribou was then reassessed and given the status of endangered (COSEWIC 2016, p. 86).

In 2011, COSEWIC prepared to conduct a reassessment of all caribou in Canada; as a result, they published a document detailing the “designatable units” (DU) of caribou, which were geographically based areas created for management purposes. Peary caribou populations are considered one of the DUs, and as such, a review of the current science on the species was conducted. In this report, COSEWIC recognized Peary caribou as a subspecies (*R. t. pearyi*) distinct from the barren-ground caribou (*R. t. groenlandicus*) and distinct from the Dolphin and Union caribou subpopulation. Additionally, the report states that Peary caribou have “no clear morphological differentiation within [the Peary populations] to support any subdivision” (Gunn 2009, as cited in COSEWIC 2011, p. 23).

A new status report published in 2015 confirmed Peary caribou status as a subspecies (COSEWIC 2015, p. 13). At this time, both the northern and southern Peary caribou populations are considered the same subspecies (Taylor et al. 2012, p. 36746; Jenkins et al. 2011, p. 27; McFarlane et al. 2014, as cited in COSEWIC 2015, p. 6). We accept the characterization of the Peary caribou as a subspecies based on genotypic and phenotypic evidence, and we consider all Peary caribou to be one subspecies distinct from the barren-ground caribou and distinct from the Dolphin and Union caribou (COSEWIC 2015, p. 13; Peterson et al. 2010, p. 698; COSEWIC 2004, pp. 8, 11–17; McFarlane et al. 2009, pp. 105, 120–126).

### Life History

Peary caribou have an average lifespan of 13–15 years, similar to other types of caribou. Males typically reach breeding age at around 4 years and females (cows) between 2–3 years (COSEWIC 2004, p. 28). Approximately 80 percent of females will calve annually; females will generally reproduce between the ages of 2 and 13 years and males between 4 and 13 years (Gunn et al. 2000, as cited in COSEWIC 2004, p. 28). The subspecies resides at a latitude that occurs at the edge of suitable areas for plant growth. This

condition necessitates a mobile feeding strategy where the Peary caribou migrate from island to island to maximize forage (Miller and Barry 2009, pp. 179, 185). The annual rut (mating season of caribou) usually occurs in late autumn, and calving occurs in late spring with variation depending on the latitude and environmental conditions (COSEWIC 2011, p. 11; Gates et al. 1986, pp. 216–221). Caribou cows are known to be loyal to their calving grounds (COSEWIC 2004, p. 30). In free-ranging caribou populations, the proportion of caribou averages 40 males to 60 females (Miller et al. 2007, p. 25).

The fecundity (the reproductive rate of an organism) or calf production (the term often used in caribou research) and recruitment (when calves survive their first winter and become part of a population) of Peary caribou are highly dependent on the female’s physical condition, specifically on fat reserves (Cameron et al. 1992, p. 480). The nutritional condition of the female is dependent on the prevailing environmental conditions; as a result, there is high variability in annual pregnancy rate, calf production, and calf recruitment. Depending on the environmental factors and the physical conditions of females, pregnancy rates can vary from 0 percent to 100 percent. In severe winters, recruitment of calves can drop to 0 percent (COSEWIC 2004, p. 28). Under favorable conditions, roughly 50 percent of calves survive their first winter (Miller et al. 2007, p. 25).

### Diet and Nutrition

Peary caribou calving is closely related to plant phenology (timing of plant blooming based on daylight and temperature). Seasonal feeding is critical for various life stages such as lactation and growth during the spring, increasing fat reserves during the summer, and surviving during the winter (COSEWIC 2004, pp. 28–35). Summer and winter forage varies based on availability, but Peary caribou prefer willow (*Salix arctica*), sedges (*Carex* species), purple saxifrage (*Saxifraga oppositifolia*), grasses and forbs, and lichens (COSEWIC 2004, p. 23).

The diet of the Peary caribou varies depending on the season and availability of vegetation (Miller and Barry 2009, pp. 184–185; COSEWIC 2004, p. 34). Generally, caribou acquire most of their dietary protein during the summer and consume higher energy plants in the winter when their energy demands are higher (Joly et al. 2010, p. 322). Additionally, willow has been found to be an important source of nutrition, especially in the summer, as

caribou on a high willow diet seem to maintain a better reproductive condition (Parker 1978, as cited in COSEWIC 2004, pp. 32–33). Lichens are generally understood to contribute a relatively low proportion (~8 percent) of winter and summer diet, when compared to other caribou subspecies, for the Peary caribou on Bathurst, Melville, and Prince Patrick Islands (COSEWIC 2015, p. 22; Miller and Barry 2009, p. 184). While lichens provide easily digestible carbohydrates, they have fairly low protein content in comparison with the green foliage of vascular plants (Joly et al. 2010, p. 322; Chen et al. 2009a, pp. 8–9).

Under ideal conditions, caribou forage by pushing snow off vegetation with their noses, but when snowpack is deeper, they will dig small craters in the snow to reach the plants (COSEWIC 2004, p. 35). However, snow conditions can limit the accessibility of the vegetation. Early winter snow, especially in combination with rain in late September or early October, can cause icing conditions, which may prevent caribou from accessing the vegetation (COSEWIC 2004, pp. 33–34). Snowfall within the range of the Peary caribou varies, and the amount of snow is determined by several variables, such as the terrain, wind speed and direction, and air and ground temperatures (Sturm 2003, as cited in Maher 2012, p. 84). As a result, during the winter, caribou tend to forage in drier, more exposed areas, which have less snow or softer, less crusted snow.

### Range

The Peary caribou is endemic to the Canadian Arctic Archipelago in northeastern Canada. The islands are located in the Territories of Nunavut and the Northwest Territories (NWT) in Canada in an ecozone described as the “high arctic”

The terrestrial range of Peary caribou is vast, with its size being roughly 540,000 square kilometers (km<sup>2</sup>) (208,495 mi<sup>2</sup>) (Jenkins et al. 2011, p. 1). The subspecies’ range extends from Queen Elizabeth Islands (QEI) in the north, Banks Island in the west, Somerset Island in the east, and the Boothia Peninsula in the southeast (Jenkins et al. 2011, p. 1; see map 1). In Nunavut, the subspecies’ range includes approximately 25 large islands and 40 small islands, the majority of which are uninhabited by humans (Jenkins et al. 2011, p. 15). In the NWT, this subspecies occurs in an area consisting of over 237,022 km<sup>2</sup> (91,514 mi<sup>2</sup>) (Governments of NWT and Nunavut 2011, p. 6). The Queen Elizabeth Archipelago consists of 35 islands that

are over 129 km<sup>2</sup> (49.8 mi<sup>2</sup>) in size (Hummel et al. 2008, p. 216).

#### *Population Estimates and Migration*

Due to ambiguity in taxonomy, older population surveys from the early 20th century may not be accurate in terms of which subspecies was documented in various island populations.

In Nunavut, a 2011 survey of Peary caribou reported the most current population estimates (Jenkins et al. 2011, p. ii; Jenkins 2008, 17 pp.). In the NWT, an aerial survey of Peary caribou was conducted in 2012 (Davison and Williams 2016, p. 3). For detailed information about the most recent surveys of Peary caribou, we refer readers to both documents and our species report, which are available at [www.regulations.gov](http://www.regulations.gov), Docket number

FWS-HQ-ES-2019-0014. In this finding, we summarize this information.

Peary caribou occur in small groups consisting of three to five individuals; as a result, these caribou are referred to at the scale of ‘subpopulations’ or ‘clusters’ as opposed to herds, as seen in barren-ground caribou (Davison 2017, pers. comm.; Jenkins et al. 2011, p. 11). The size of these clusters will vary depending on the season; subpopulations will increase slightly prior to calving, then stabilize or decrease during calving, and increase in the “post-calving aggregations” as they migrate inland from coastal areas (COSEWIC 2004, p. 35). Peary caribou populations are often described as “island group” subpopulations as they are associated with a set of islands used regularly during their seasonal

migrations (Jenkins et al. 2011, p. xiii; Gunn et al. 2011, pp. 41–44). That said, interbreeding between island groups does occur (Nagy 2011, p. 33).

Island groups are organized based on factors such as physical location and proximity of islands, management, observations of local communities, scientific observations, tracking of caribou herd migrations, and to some degree, genetic analyses. In 2015, COSEWIC divided the subspecies into four island groups (COSEWIC 2015, p. 8). For the purposes of this status review, we used the latest COSEWIC review to provide a map representing four island-complex regions (COSEWIC 2015, p. 8; Jenkins et al. 2011, p. 13; COSEWIC 2004, p. 12). See map, below.

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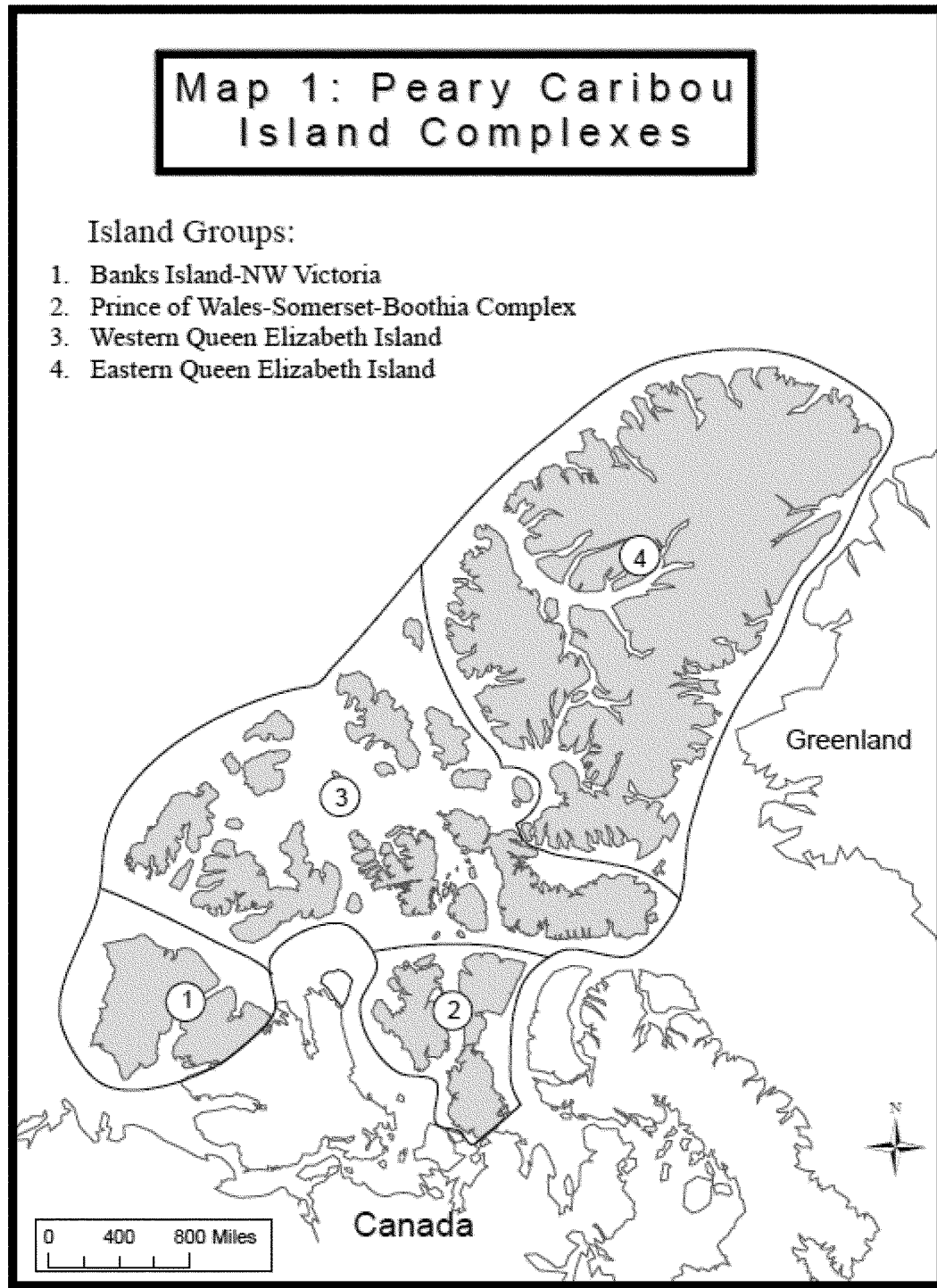


Figure 1—Map of the Canadian Arctic Archipelago where the Peary caribou exist. (Source: Adapted from COSEWIC 2015, p. 9 and Jenkins et al. 2011, p. 13.)

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As noted above, the island populations are not reproductively isolated from each other; caribou travel hundreds of kilometers and can move among the Arctic Islands due to the sea

ice that persists for almost 10 months of the year (COSEWIC 2015, p. 12; COSEWIC 2011, p. 23; McFarlane et al. 2003, pp. 128–129). Thus, while we discuss these four island groups of Peary caribou, uncertainty regarding the

genetic distribution and movement of these subpopulations remains (COSEWIC 2015, pp. 25–26; SARC 2012, pp. 20, 29).

As of 2018, the estimated populations are presented in table 1, below.

TABLE 1—ESTIMATES OF PEARY CARIBOU POPULATIONS IN 2018 BASED ON AERIAL SURVEYS

[Adapted from Jenkins et al. 2011, pp. 117–151,<sup>1</sup> Davison and Williams 2013, pp. 1–2,<sup>2</sup> COSEWIC 2015, pp. 33–34,<sup>3</sup> Anderson 2016, pp. iii, 14–19<sup>4</sup>.]

Island complex	Islands	Estimated population	Year surveyed	Territory
Banks Island—NW Victoria .....	Banks Island <sup>3</sup> .....	2,248	2014	Northwest Territories.
	NW Victoria <sup>3</sup> .....	4	2015	Northwest Territories.
	Melville Island <sup>3</sup> .....	2,740	2012	Northwest Territories/Nunavut.
	Prince Patrick <sup>3</sup> .....	2,746	2012	Northwest Territories.
Western Queen Elizabeth Islands .....	Eglington Island <sup>2</sup> .....	181	2012	Northwest Territories.
	Byam Martin <sup>3</sup> .....	121	2012	Nunavut.
	Emerald Islands <sup>2</sup> .....	45	2012	Northwest Territories.
	McKenzie-King <sup>3</sup> .....	36	1997	Northwest Territories/Nunavut.
	Bordon Island <sup>3</sup> .....	16	1973	Northwest Territories/Nunavut.
	Brock Island <sup>3</sup> .....	0	1997	Northwest Territories.
	Bathurst Island <sup>3</sup> .....	1,463	2013	Nunavut.
	Cornwallis Island <sup>1</sup> .....	~1	2013	Nunavut.
	Ringnes Island <sup>1</sup> .....	282	2007	Nunavut.
	Lougheed Island <sup>3</sup> .....	103	2007	Nunavut.
	Devon Islands <sup>4</sup> .....	69	2008	Nunavut.
	Eastern Queen Elizabeth Islands .....	Axel Heiberg Islands <sup>3</sup> ....	2,255	2007
Ellesmere Islands <sup>3</sup> .....		918	2015	Nunavut.
Prince of Wales-Somerset-Boothia Peninsula Island Complex.	Prince of Wales <sup>3</sup> .....	1	2004	Nunavut.
	Somerset <sup>3</sup> .....	4	2005	Nunavut.
	Boothia Peninsula <sup>3</sup> .....	1	2006	Nunavut.

**Total estimated population in 2018: 13,234**

### Population Trends

The trend in population estimates since the 1960s demonstrates that Peary caribou populations have generally decreased with a partial recovery in the populations from 2010 through 2015 (COSEWIC 2015, pp. 32–43; Gunn et al. 2010, pp. 40–44). In 1961, the first comprehensive survey of Peary caribou across the Queen Elizabeth Islands was completed (Tener 1963, as cited in Jenkins et al. 2011, p. 2). Surveys in 1961 estimated the population to be approximately 26,000 Peary caribou on Queen Elizabeth Islands and approximately 22,000 Peary caribou on the larger southern islands and the Boothia Peninsula (Gunn et al. 2011 p. 40). However, the survey was not comprehensive, nor was it quantitative (Miller *et al* 2005, pp. 65–66). The 1961 survey data were later reanalyzed, and the results were published in 2005. The new analysis determined the population estimate in 1961 for Peary caribou to be 28,288 with a range of 20,436–37,031 at a 95 percent confidence interval (Miller et al. 2005, p. 65).

While different methods and taxonomic changes affected the reliability of older surveys, recent surveys using consistent survey methods have provided additional clarity on the status of the subspecies. Between 1961 and 1973, an 83 percent reduction in the Peary caribou population is estimated to have occurred. Recent numbers are ~80 percent lower than the historical high

population numbers seen 40–50 years ago (SARC 2012, p. xvi; Gunn et al. 2011, pp. 37, 40). The declines were attributed to deep snow layers and icing, which likely caused widespread mortality and resulted in little or no reproductive success (Miller et al. 1975; entire). However, stochastic, periodic die-off followed by a population rebound is a characteristic of the Peary caribou ecology (COSEWIC 2015, p. 32). Overall, the trend data suggest some populations have experienced significant declines while others have recovered. On Banks Island, the subpopulation declined from 1982 to 1992 but stabilized at low levels from 1992 through 2010. The population on Banks Island was estimated to be 2,351 in 1959, and declined to as low as 451 in 1998, before recovering to 1,142 in 2001, and 2,234 in 2014 (COSEWIC 2015, p. 35). While the subpopulation on Banks Island appears to have stabilized, the subpopulation on Victoria Island has suffered almost a 100 percent decline. The Peary caribou subpopulation on Victoria Island declined from 4,512 caribou in 1980 to 159 in 1993. Potential reasons for the decline include hunting and disease. A survey in 2015 recorded only two individuals (COSEWIC 2015, p. 36).

Similar to the conditions on Victoria Island, the Prince of Wales-Somerset-Boothia Island complex appears to have also suffered a total decline. The subpopulation of this island group reached a maximum number of 10,000 individuals between 1980 and 1985

before plummeting to a handful of individuals in the early 2000s (COSEWIC 2015, p. 36). The cause for this decline remains unknown, although a number of possible reasons such as extreme weather, wolf predation, hunting, disease, and competition with muskoxen were suggested (COSEWIC 2015, p. 37).

In contrast to the subpopulation on Victoria Island and the Prince of Wales-Somerset-Boothia Island complex, the Peary caribou subpopulation on Western Queen Elizabeth Island has stabilized and is increasing. While the subpopulation experienced two catastrophic die-offs (declines ranging from 72 percent to 92 percent) from weather extremes in 1974–1975 and 1996–1997, it appears to have recovered. In 2012–2013, the population was an estimated 7,300 adults, an increase from the 1986–1988 survey population of 2,500 individuals (which includes calves) (COSEWIC 2015, p. 38; Jenkins et al. 2011, p. 120).

Due to its location in the far northern part of the Peary caribou's range, partial surveys of the Eastern Queen Elizabeth Island group have been conducted over the years. A complete survey of the island group was not completed until 2007; that survey yielded 2,291 caribou (COSEWIC 2015, pp. 41–42). Recent surveys suggest the population is increasing. However, this higher number could simply be the result of the larger area covered by the more recently conducted surveys (COSEWIC 2015, p. 42)

As of 2015, the number of Peary caribou was estimated to be approximately 13,700 in Canada (COSEWIC 2015, p. 42). While some island groups have experienced a significant decline, others are more stable or increasing. One subpopulation (Prince of Wales-Somerset-Boothia island complex) had fewer than 10 individuals at the last count in 2005, with no evidence of any recovery. However, despite experiencing declines in the 2000s, the Banks Island population has returned to its 1959 numbers. The WQEI subpopulation, which now accounts for almost half of the extant population, has recovered from a catastrophic die-off in the 1990s and experienced increases for the 15-year period between 1997 and 2012. Overall, while the Peary caribou experienced population declines in the 1990s due to icing events and other factors, the subspecies has since experienced an increase of about 150 percent within the past two decades (COSEWIC 2015, pp. 42–43).

#### Conservation Status of the Peary Caribou

The Peary caribou subspecies was listed as endangered under Canada's Federal Species at Risk Act (SARA) in February 2011, due to a decline in its population size, and due to expected changes in long-term weather patterns (Giroux et al. 2012, p. 4; COSEWIC 2004, pp. 36–41, 51–58). Under SARA, an "endangered species" is defined as a species facing imminent extirpation or extinction (Statute of Canada (SC) 2002, c. 29). SARA makes it an offense to kill, harm, harass, capture, or take an individual of a listed species that is endangered, threatened, or extirpated; possess, collect, buy, sell, or trade an individual of a listed species that is extirpated, endangered, or threatened—or its part or derivative; or damage or destroy the residence of one or more individuals of a listed endangered or threatened species (or of a listed extirpated species, if a recovery strategy has recommended a reintroduction site). Subsistence hunting by indigenous communities is generally exempt from prohibitions under SARA (COSEWIC 2015, p. 52). Caribou are granted protections by various mechanisms in Canada such as land-claim agreements, and hunts are co-managed by boards such as the Nunavut Wildlife Management Board, the Wildlife Management Advisory Council in the Northwest Territory, and hunting and trapping associations (COSEWIC 2004, p. 61). Both a Federal recovery strategy and territorial management plan are currently being developed for this

subspecies (Giroux et al. 2012, p. 4). Due to improvement in the subspecies condition, COSEWIC reassessed this subspecies as threatened in 2015 (COSEWIC 2015, p. 56). This reassessment does not change the subspecies' status under SARA, which requires an amendment to the SARA listing. The subspecies' status is currently being reviewed under SARA based on the COSEWIC 2015 reassessment (Carriere 2017, pers. comm.).

Caribou are recognized at the species level as "vulnerable" by the International Union for Conservation of Nature (IUCN) (the Peary caribou subspecies is not addressed by the IUCN) (Gunn 2016, unpaginated). The IUCN identifies and documents those species considered to be most in need of conservation attention if global extinction rates are to be reduced and is recognized as an approach for evaluating the conservation status of plant and animal species; however, designations by the IUCN convey no actual protections.

#### Regulatory Framework

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations (50 CFR part 424) set forth the procedures for determining whether a species is an "endangered species" or a "threatened species." The Act defines an endangered species as a species that is "in danger of extinction throughout all or a significant portion of its range," and a threatened species as a species that is "likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range." The Act requires that we determine whether any species is an "endangered species" or a "threatened species" because of any of the following factors:

- (A) The present or threatened destruction, modification, or curtailment of its habitat or range;
- (B) Overutilization for commercial, recreational, scientific, or educational purposes;
- (C) Disease or predation;
- (D) The inadequacy of existing regulatory mechanisms; or
- (E) Other natural or manmade factors affecting its continued existence.

These factors represent broad categories of natural or human-caused actions or conditions that could affect a species' continued existence. In evaluating these actions and conditions, we look for those that may have a negative effect on individuals of the species, as well as other actions or conditions that may ameliorate any

negative effects or may have positive effects.

We use the term "threat" to refer in general to actions or conditions that are known to or are reasonably likely to negatively affect individuals of a species. The term "threat" includes actions or conditions that have a direct impact on individuals (direct impacts), as well as those that indirectly affect individuals such as through alteration of their habitat or required resources (stressors). The term "threat" may encompass—either together or separately—the source of the action or condition, or the action or condition itself.

However, the mere identification of any threat(s) does not necessarily mean that the species meets the statutory definition of an "endangered species" or a "threatened species." In determining whether a species meets either definition, we must evaluate all identified threats by considering the expected response by the species, and the effects of the threats—in light of those actions and conditions that will ameliorate the threats—on an individual, population, and species level. We evaluate each threat and its expected effects on the species, then analyze the cumulative effect of all of the threats on the species as a whole. We also consider the cumulative effect of the threats in light of those actions and conditions that will have positive effects on the species—such as any existing regulatory mechanisms or conservation efforts. The Secretary determines whether the species meets the definition of an "endangered species" or a "threatened species" only after conducting this cumulative analysis and describing the expected effect on the species now and in the foreseeable future.

The Act does not define the term "foreseeable future," which appears in the statutory definition of "threatened species." Our implementing regulations at 50 CFR 424.11(d) set forth a framework for evaluating the foreseeable future on a case-by-case basis. The term foreseeable future extends only so far into the future as the Services can reasonably determine that both the future threats and the species' responses to those threats are likely. In other words, the foreseeable future is the period of time in which we can make reliable predictions. "Reliable" does not mean "certain"; it means sufficient to provide a reasonable degree of confidence in the prediction. Thus, a prediction is reliable if it is reasonable to depend on it when making decisions.

It is not always possible or necessary to define foreseeable future as a

particular number of years. Analysis of the foreseeable future uses the best scientific and commercial data available and should consider the timeframes applicable to the relevant threats and to the species' likely responses to those threats in view of its life-history characteristics. Data that are typically relevant to assessing the species' biological response include species-specific factors such as lifespan, reproductive rates or productivity, certain behaviors, and other demographic factors.

### Analytical Framework

The species reports document the results of our comprehensive biological status review for the two subspecies, including an assessment of the potential threats to the subspecies. The reports do not represent decisions by the Service on whether the species should be proposed for listing as endangered or threatened species under the Act. They do, however, provide the scientific basis that informs our regulatory decisions, which involve the further application of standards within the Act and its implementing regulations and policies. The following is a summary of the key results and conclusions from the reports; the full reports can be found at [Docket FWS-HQ-ES-2019-0014 on <http://www.regulations.gov>].

### Summary of Biological Status and Threats

In this section, we review the biological condition of the Peary caribou and its resources and factors that affect the species to assess the species' overall persistence. The Peary caribou lives in a harsh environment that is sparsely populated with people, and this subspecies is not consistently monitored in all locations where it exists. Caribou biologists have suggested a number of potential threats that are likely contributing to the decline of the Peary caribou. The primary threats will be discussed below. We also assessed other threats that we concluded to have minor effects on the species; those assessments can be found in our Species Report. The minor threats are disease, predation (primary by wolves), and competition with other species for food (including other caribou and muskox). The major threats that will be discussed below are:

- Effects of climate change;
  - Inaccessibility of food due to snow and ice conditions;
  - Hindered ability to seasonally migrate due to lack of sea ice;
  - Disturbance due to development, oil and gas exploration, or shipping;
  - Parasitic harassment by botflies;
- and

- Hunting

### Climate Change

Changes in climate and weather patterns are suspected to be a major contributor to the decline of this subspecies (COSEWIC 2015, p. 44; Hansen et al. 2011, p. 1,922; Miller and Barry 2009, p. 175; Prowse et al. 2009a, p. 269; Tews et al. 2007, pp. 95–96; COSEWIC 2004, pp. viii, 55–58). Our analysis under the Act includes consideration of ongoing and projected changes in climate. The terms “climate” and “climate change” are defined by the Intergovernmental Panel on Climate Change (IPCC). The term “climate change” thus refers to a change in the mean or variability of one or more measures of climate (e.g., temperature or precipitation) that persists for an extended period, typically decades or longer, whether the change is due to natural variability, human activity, or both (IPCC 2013, p. 1,450).

As noted above, to determine whether these species are threatened, we must evaluate threats and the species' response to threats over “the foreseeable future.” The demographic, ecological, and evolutionary responses of caribou to threats resulting from climate change are complicated to predict. The complexity stems from the species' habitat requirements and resilience to the effects of climate change. Current models for the Arctic predict deeper snow cover, increasing rainfall, more thawing–freezing cycles, and a higher risk of ice-layer formation on the soil within the snowpack during the winters of the coming decades (Steiner et al. 2013, p. xii; Hansen et al. 2011, p. 1,917; Turunen et al. 2009, pp. 813–814; Putkonen and Roe 2003, entire). Under these models, caribou populations will respond negatively to climate change due to the occurrence of more precipitation, greater snowfall, and subsequently more freezing-rain events, which will make access to food more difficult (COSEWIC 2015, pp. 44–46; Hummel and Ray 2008, pp. 137–141; Miller et al. 2007, p. 33). Reduced access to food would lead to increased starvation, die-offs, and reduced calf production and recruitment, which are highly dependent on the female's physical condition, specifically on fat reserves (Governments of the Northwest Territories and Nunavut 2018, p. 28). However, other models support a conclusion that Peary caribou may experience increases in population numbers if climate change results in a 50 percent increase of taller, denser vegetation and woody shrubs (Tews et al. 2007, pp. 95–96). As ecological systems are dynamic, it is complicated

to predict how one change (such as a rise in temperature) will affect other elements within the ecosystem (such as the amount of precipitation that falls as freezing rain, rather than snow) (Green and Sadedin 2005, pp. 117–118; Burkett et al. 2005, entire). Given that caribou experts consider the primary threat to the Peary caribou to be climate-change related, we rely on climate projection models undertaken by the IPCC (IPCC 2014a, pp. 8–12). The models discuss future trends for precipitation and air and water temperature, which have an impact on the caribou's habitat.

Projections of sea-ice loss using RCP 4.5 and 8.5 scenarios and rain-on-snow events in the Canadian Arctic vary in their time scale (Mallory and Boyce 2018, p. 2,192; Jenkins et al. 2016, p. 4; Engler and Pelot 2013, p. 21; Stroeve et al. 2012, p. 1,012). While all climate models agree that sea-ice loss will occur in the Canadian Arctic, there is disagreement on when sea-ice loss will result in an ice-free period. Some models project the Canadian Arctic will experience ice-free periods as early as 2050 while others project that due to the influx of sea ice from the Arctic Ocean, sea ice in the Canadian Arctic will persist into the 2080s (Li et al. 2019, pp. 1–2; Derksen et al. 2018, p. 198; Mallory and Boyce 2018, pp. 2,194–2,195; Johnson et al. 2016, p. 16; Jenkins et al. 2016, p. 4). This uncertainty is due in part to the flow of sea ice from the Arctic to the east coast of the Canadian Arctic Archipelago (Derksen et al. 2018, p. 218).

In addition to sea-ice loss, the thinning of sea ice can also have an impact on the caribou. This is because if sea ice is too thin, it will not be able to support the caribou's weight. We thus take into consideration changes in ratio over time between the thinner first-year ice versus the thicker, multiyear ice (Li et al. 2019, p. 2). Additionally, as seen in the population trend above, Peary caribou subpopulations can fluctuate widely from year to year and mass die-off events can occur within a single season. We thus need to identify a timeframe long enough to observe changes in the subspecies.

Most models project that portions of the Canadian Arctic will be ice free by 2040–2060 (Derksen et al. 2018, pp. 198, 218; Johnson et al. 2016, p. 16; Lu et al. 2014, p. 61). Although we possess projections that go out to 2100, there is greater uncertainty between the climate model projections in the latter half of the 21st century and how the effects of climate change will affect species response when projected past mid-century. Accordingly, we determined that the foreseeable future extends only

to 2050 for the purpose of this analysis and we rely upon projections out to 2050 for predicting changes in the species conditions. This timeframe allows us to be more confident of assessing the impact of climate change on the species. Therefore, based on the available climate projection and information we have on the subspecies, we have determined 2050 as the foreseeable future timeframe for the Peary caribou.

One additional concept that adds to the uncertainty of what will occur in the Arctic ecosystem is “sudden climate change,” an amplified response that has been a concern to scientists for several years (Hansen et al. 2011, p. 1,917; Barber et al. 2008, p. 8). Surface temperature and albedo (reflection of sunlight) are two critical factors of the Arctic climate system (Wang et al. 2012, p. 2). An area that does not contain snow absorbs more heat than an area covered with snow (areas with snow reflect more heat), so the albedo effect is less in areas of the Arctic that lack snow and ice (Stroeve et al. 2012, p. 1,012). The Arctic climate both affects global-scale climate change and is affected by it through feedback mechanisms (Barber et al. 2008, p. 8). All combinations of models and emission scenarios yield increases in global temperature. Therefore, if there are large-scale changes in temperature, the weather patterns could change drastically, and the overall effect on the ecosystem is unknown.

We acknowledge that the climate is changing in the Arctic region, and based on the best scientific and commercial information available on Peary caribou, we reach reasonable conclusions about the likely impacts specific changes in climatic conditions may have on the species over the foreseeable future, which will be discussed below (IPCC 2014b, entire; Schiermeier 2011, p. 185; Olsen et al. 2011, entire; Liston and Hiemstra 2011, p. 5,691; Prowse et al. 2009b, entire; Turunen et al. 2009, p. 813; Barber et al. 2008, entire; Rinke and Kethloff 2008, p. 173).

#### *Snowpack, Ice Events, and Food Availability*

One of the major causes of catastrophic die-offs of caribou is the formation of hard, crusted snow or layers of ice on the ground, which restricts the animals’ access to forage (COSEWIC 2015, p. 44; COSEWIC 2004, pp. 51–53; Miller and Gunn 2003, pp. 385–386). These layers of ice crust form in several ways. One way is repeated cycles of thawing and refreezing of the snowpack (Tyler et al. 2008, p. 1,679). Ice layers can also form due to freezing rains or rain-on-snow events (Miller and Barry 2009, p. 182; Putkonen and Roe 2003, pp. 37–1–37–2). A third way is when spring melt water trickles through the snow-pack and freezes as it comes into contact with the very cold ground beneath (Woo and Heron 1981, as cited in Tyler 2010, p. 198).

Layers of thick ice block access to food and influence caribou movement patterns by pushing herds to move to areas with less ice but poorer forage (Hansen et al. 2011, p. 1,921; Stien et al. 2010, p. 917). The decline of Peary caribou in four major die-offs in western Queen Elizabeth Islands between 1970 and 1998 coincided with extremely heavy snowfall, deep snow-packs, and heavy icing, which limited access to forage, increased energy expenditure, and led to extreme malnourishment and subsequent mass starvation events (Jenkins et al. 2011, p. 6; Miller and Barry 2009, p. 176; Gunn et al. 2006, p. 6; Adams and Dale 1998a, as cited in Tyler 2010, p. 198).

Climate change is expected to cause heavier and more frequent snowfall events, more variable weather patterns, freezing rain, and higher layers of snow during these winter events (Steiner et al. 2013, p. 83; Turunen et al. 2009, p. 813; COSEWIC 2004, pp. 51–53). Due to changes in temperature, air-circulation patterns, and ocean-circulation changes, precipitation is expected to increase strongly during the summer season. Some caribou researchers project that, as temperatures rise, more severe weather patterns will occur and will cause increased snow and ice cover over vegetation. Under this scenario, food availability is projected to decrease. If these conditions occur, Peary caribou

could suffer additional widespread starvation events, thereby decreasing the resiliency of the subspecies (Miller and Gunn 2003, p. 386).

#### *Loss of Sea Ice*

Sea ice is a vital component of the seasonal migrations of the Peary caribou. Peary caribou use multiple islands throughout their annual migrations and require sea ice to cross between islands. Older, multiyear sea ice is becoming less prevalent. In Canada’s Arctic Archipelago, sea ice can attain a thickness of 4 to 6 meters (13 to 20 ft) (Haas et al. 2006, as cited in Meier et al. 2011, p. 9–13). Within the range of the Peary caribou, these old layers of sea ice are vital for crossing between islands. The majority of the ice in the Arctic Ocean is now young, “first-year” sea ice, which is not only more susceptible to summer melt, but is also thinner and less able to support caribou during their seasonal migrations (COSEWIC 2015, p. 44; SARC 2012, p. 25; Meier et al. 2011, pp. 9–6–9–8; Prowse et al. 2009a, p. 266). Sea ice in the Arctic has been at extremely low summer levels in recent years. Most of the oldest typical forms of sea ice (which were usually more than 5 years old) no longer exist (Meier et al. 2011, p. 9–4).

Since the beginning of monitoring in 1979, record low levels of sea ice have occurred in recent years. From 1968 to 2015, sea ice declined at a rate of 6.1 percent per decade (Environment and Climate Change Canada 2016, p. 8). Multiyear ice, which is thick enough to support the caribou’s weight, has been declining over time. In the mid-1980s, multiyear ice accounted for 75 percent of all ice in the Arctic. By 2011, it accounted for 45 percent of all ice (Li et al. 2019, p. 2). Additionally, landfast ice has also been decreasing. This is important to the Peary caribou as the Canadian Arctic Archipelago contains many narrow channels that the subspecies uses for its migration corridors. Over the 10-year intervals starting in 1976, the maximum extent of landfast ice was:  $2.1 \times 10^6$  km<sup>2</sup> (1976–1985),  $1.9 \times 10^6$  km<sup>2</sup> (1986–1995),  $1.74 \times 10^6$  km<sup>2</sup> (1996–2005), and  $1.66 \times 10^6$  km<sup>2</sup> (2006–2018) (Li et al. 2019, p. 5).



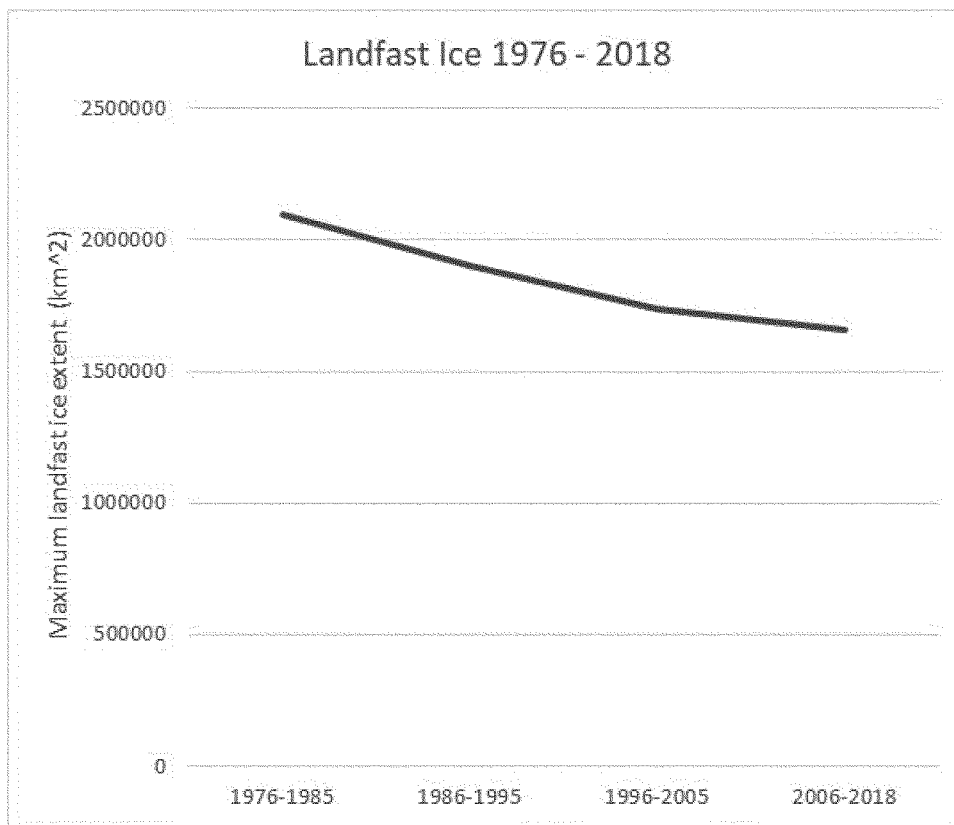


Figure 2—Landfast ice area in the Canadian Arctic Archipelago from 1976 to 2018. (Adapted from Li et al. 2019, p. 5.)

Sea-ice loss is likely to continue and accelerate throughout this century, and Arctic seas may be seasonally ice-free as early as 2040 (Engler and Pelot 2013, p. 21; Meier et al. 2011, p. 9–3; Olsen et al. 2011, p. 112; Wang and Overland 2009, p. 1; Boé et al. 2009, p. 1). Decreased ice concentrations during warmer summer temperatures result in significant heating of the ocean surface, which then further increases ice melt (Stroeve et al. 2012, p. 1,012; Meier et al. 2011, p. 9–16). As a consequence of earlier ice-break-up dates and later freeze-up dates, caribou would have to begin their spring migration earlier to ensure safe passage over large water bodies or possibly shift their distribution in search of food sources (COSEWIC 2015, p. 46; Post and Forchhammer 2008, as cited in Sharma et al. 2009, p. 2,559). Some researchers have theorized mass drownings have occurred during migrations when sea ice was too thin to support the weight of the caribou (SARC 2012, pp. 35, 47). Additionally, changes in sea ice may inhibit movement of populations, which could lead to certain subpopulations being geographically isolated and the potential for reduced genetic diversity

within the subspecies (SARC 2012, p. xvii).

While the overall climate trend for the Canadian Arctic points toward a decreasing ice level over time, the condition in the Canadian Arctic Archipelago is likely to experience slower ice loss. Overall, the Canadian Arctic archipelago possesses the thickest Arctic sea ice (Li et al. 2019, p. 1). The growth of multiyear ice within the Peary caribou's range is the result of both first-year to multiyear ice conversion and the arrival of multiyear ice from the Arctic Ocean located to the west (Pizzolato 2015, p. 4). This Arctic Ocean sea ice wedges up against the western portions of the WQEI making the sea ice in the region the oldest and thickest in the world, with some ice potentially reaching 6–8 meters thick. The result is that the western Canadian Arctic multiyear ice makes up as much as 50 percent of all sea ice (Li et al. 2019, p. 7 Engler and Pelot 2013, p. 25).

In summary, while the increasing temperatures related to climate change have produced a marked decrease in sea ice throughout the Arctic that is projected to continue into the foreseeable future, sea-ice loss in Peary

caribou habitat is not as pronounced due to the unique geography of the region. In situ formation of multiyear ice as well as new ice from the Canadian Basin creates a condition that allows multiyear ice to persist for a longer period. The persistence of multiyear ice in the region facilitates the continued existence of migration corridors for the Peary caribou. This is expected to allow the species to continue to have access to food resources, thereby maintaining the resiliency of the subspecies to future stochastic events.

#### *Summary of Climate Change*

As a subspecies native to Canada's far north, the Peary caribou is affected by climate change in multiple ways. Climate change increases the frequency of ice events, which limits access to forage, and has been linked to major die-offs (Hansen et al. 2011, p. 1,921; Jenkins et al. 2011, p. 6; Stien et al. 2010, p. 917). On the other hand, the effects of climate change on plant phenology and composition remain more uncertain. Potential effects of climate change include a delay in the emergence of green foliage during the spring and decreasing shrub cover with

an increase in the number of shrub species (Chen et al. 2009a, pp. 17–19; Miller and Gunn 2003, p. 386). However, an increase in shrub species does not translate to higher nutritional content for caribou (COSEWIC 2015, pp. 22, 25). Whether Peary caribou will be able to adapt to these changes remains unknown. While uncertainty remains about the effects of climate change on plant condition, the continued persistence of multiyear sea ice in the species' range facilitates the continued existence of migration corridors for the Peary caribou (Pizzolato 2015, p. 4; Engler and Pelot 2013, pp. iii, 25; Meier et al. 2011, p. 9–3; Boé et al. 2009, p. 1; Wang and Overland 2009, pp. 1–4). The Peary caribou is found in Canada's high Arctic, which comprises a number of islands. The Peary caribou subpopulation's continued ability to migrate between these islands in search of food will help maintain the resiliency of the species to future stochastic events.

#### *Exploration, Shipping, and Other Developmental Activities*

Peary caribou herds appear to be affected by human activities during the caribou's inter-island migrations and during calving season.

The projected decline of sea ice may lead to an increase of shipping traffic through the Northwest Passage. Between 1990 and 2011, shipping traffic increased by 75 percent (COSEWIC 2015, p. 49). Ships sailing through the Passage break up the ice impeding migration between islands. The Peary caribou then have to spend additional time waiting for the ice to reach sufficient thickness for crossing. Caribou have been observed at the water's edge waiting for the ice to re-freeze, even up to several days (Poole et al. 2010, p. 426). These events can cause significant decreases in body fitness if there is not adequate nutrition available for the herd while they are waiting to cross a body of water. Increased shipping is likely to affect island complexes farther to the south of the subspecies' range, including Prince of Wales and Somerset Island and the Bathurst-Cornwallis island group (COSEWIC 2015, p. 50). Islands farther to the north, such as Ellesmere, Axel Heiberg, or the Ringnes group, are likely to be less impacted due to the presence of pack ice and being far away from major trade lanes (COSEWIC 2015, p. 50; Engler and Pelot 2013, p. 9). A high concentration of sea ice within the Queen Elizabeth Islands and difficult terrain will restrict ship traffic in this region (Pizzolato 2015, p. 4).

Movements of caribou indicate that they avoid seismic lines, roads, and other infrastructure (Nagy 2011, pp. 158–159; Latham 2011, p. 2,854). Seismic lines are vital components of oil and gas exploration and development (Nagy 2011, pp. 10–11). Although an earlier study suggested that caribou were not significantly disturbed by human presence (Slaney et al. 1975, as cited in COSEWIC 2004, p. 46), an abundance of information since then supports a conclusion that these activities do affect caribou behavior (Nagy 2011, pp. 158–159; Jenkins et al. 2011, p. 6; Hummel and Ray 2008, pp. 210, 219; Mahoney and Schaefer 2002, pp. 147, 151). In addition to scientific studies, anecdotal reports in Resolute Bay (Cornwallis Island, Nunavut) and Grise Fiord (Ellesmere Island, NWT) indicate that exploration activities for resources such as oil and gas are an additional threat for caribou (Jenkins et al. 2011, p. 6). Local Inuit communities also expressed concern that industrial activities can increase avoidance behavior and pollution and spills can adversely affect the health of the caribou (COSEWIC 2015, p. 54). Caribou biologists appear to generally be in agreement that these exploration and development activities have been observed to deter caribou from moving into areas that are vital for their survival (Nagy 2011, p. 158; Jenkins et al. 2011, p. 6).

While development has the potential to impact the Peary caribou by increasing energy expenditure, exploration and developmental activities have declined in recent years. Oil and gas exploration in the Peary caribou range peaked in the 1960s and 1970s (COSEWIC 2015, p. 54). Although exploration efforts have continued since then, it has not resulted in a large increase in mining or extraction sites (COSEWIC 2015, pp. 54–55). This is due to fluctuating market prices having a significant impact on extent and intensity of activities. In addition, environmental reviews undertaken by provincial governments have also slowed the rate of exploration and developmental activities (COSEWIC 2015, pp. 53–54). That said, there are currently active mining and extraction sites within the Peary caribou range. However, these sites remain localized and only impact nearby herds (COSEWIC 2015, p. 55). Overall, while current exploration and extraction efforts do result in negative effects to the Peary caribou, the effects on the overall subspecies are likely to be more limited.

In summary, the best available information supports that current levels of exploration, development, and

shipping activities may have some negative effects on the Peary caribou resulting in behavioral changes in response to these activities. However, at present, these activities do not rise to the point where there is a significant impact to the subspecies (COSEWIC 2015, p. 55; Taylor 2005, as cited in Jenkins et al. 2011, pp. 6, 8, 118).

#### *Parasitic Harassment by Botflies*

Botflies, oestrids from the family Oestridae, have been identified as a potential threat that can affect Peary caribou in the future with a warming climate. Caribou species serve as host to two oestrid species: Warble flies (*Hypoderma tarandi*) and nose bot flies (*Cephenemyia trompe*). In the Arctic region, few hosts are available for parasites; warble flies and nose bot flies are particularly well adapted to survive in the Arctic climate using caribou as their host. Although these oestrids are widespread throughout the summer range of most caribou herds, they are considerably less prevalent in the high Arctic as they are at the latitudinal extreme of their range due to temperature, hours of daylight, and wind conditions (Gunn et al. 2011, pp. 13–14; Kutz et al. 2004, p. 114). However, some researchers have expressed concern that, should warming trends continue, the parasitic rate of development and infectivity timeframes could become altered, which may increase the energy expenditure of Peary caribou through avoidance behavior. Prolonged avoidance behavior increases the risk of the caribou succumbing to other illnesses, exposure to predation, and decreased survival rates of offspring (Kutz et al. 2004, p. 114; Kutz et al. 2001, as cited in Kutz et al. 2004, p. 112).

#### *Warble Flies*

Behavioral changes in response to insect harassment have commonly been observed in caribou. Warble flies trigger panic responses in caribou when they swarm around them. Warble flies live on the flesh underneath the skin of caribou. As many as 458 warble larvae have been documented on a single caribou (Hughes et al. 2008, p. 257). Adult females lay their eggs on caribou's body hair. After hatching, the larvae penetrate the skin and live subcutaneously over the winter until the next spring. The larvae spend the winter growing under the skin on the caribou's back, feeding on the flesh of the caribou. The larvae create a hole through the caribou's flesh and skin so the larvae can breathe. Between May and June, the larvae leave their host through the breathing pore in the skin, pupate on

the ground, and after a few weeks metamorphose inside a pupal case into adult flies (Nilssen 1997, p. 296). The peak emergence of these oestrids is in July.

Parasites deprive their hosts of energy that could be normally used for growth, maintenance, or reproduction (Cuyler et al. 2012, p. 251; Ballesteros et al. 2011, p. 34; Hughes et al. 2008, entire; Colman et al. 2003, p. 11; Hagemoen and Reimers 2002, pp. 883–884). The warble flies create an opening in the skin, and these open wounds make caribou more susceptible to blood loss and bacterial infections, which increase their energy expenditure (Scheer 2004, pp. 10–11). Severe insect harassment negatively affects growth rates and body size of caribou (Helle and Tarvainen 1984, as cited in Weladji et al. 2003, p. 80). When food availability is limited during the winter season, caribou lose body fat and catabolize protein (muscle) reserves (Miller 2003, as cited in Hughes et al. 2008, p. 253). Body mass is a fitness-related trait in caribou. Females need at least six percent body fat to reproduce

(Jenkins 2012, personal communication). Heavier females are more likely to reproduce than lighter females, and increased weights prior to winter assist in preventing winter starvation (Ballesteros et al. 2011, p. 34).

Temperature and cloud cover are vital factors for harassment of caribou by warble flies as these two factors affect the flies' activity level (Weladji et al. 2003, p. 80; Nilssen 1997, p. 301). Warble flies are most active during warm, sunny days; warble fly activity increases as the temperature increases (Weladji et al. 2003, pp. 80–81). Within the Arctic, the annual mean surface temperature has increased at a rate of 0.34 °C (0.61 °F) per decade (Wang et al. 2012, p. 1). Throughout the Queen Elizabeth Islands, the mean average daily temperature from December to February is between –35 °C and –27 °C (–31.0 °F and –16.6 °F). In July, the mean average daily temperature is between –1 and 3 °C (33.8 and 37.4 °F) (Meteoblue 2017, unpaginated). General circulation models and other climate models indicate that average annual

temperatures will increase 3–6 °C by 2080 (Meier et al. 2011, pp. 9–17–9–18; Olsen et al. 2011, p. 112). Based on these anticipated temperatures, we calculated the expected temperatures if the temperature was to increase by 3 °C (scenario 1) and by 6 °C (scenario 2). The climate models used in this table used a previous set of scenarios known as the Special Report on Emissions Scenarios (SRES) to project the low-emissions using scenario (SRES B1) and high-emissions scenario (SRES A2) (Marengo et al. 2011, p. 27). More recently, a newer set of scenarios (*i.e.*, RCPs) were prepared that include a wider range of future conditions and emissions. However, to compare the SRES and RCP scenarios, SRES B1 is roughly comparable to RCP 4.5 and SRES A2 is similar to RCP 8.5 (Melillo et al. 2014, p. 821). These similarities between specific RCP and SRES scenarios make it possible to compare the results from different modeling efforts over time (Melillo et al. 2014, p. 821). See table 2, below.

TABLE 2—QUEEN ELIZABETH ISLANDS: TEMPERATURE INCREASE SCENARIO UP TO 2080

[Adapted from Meier et al. 2011, p. 9–18; Olsen et al. 2011, p. 112.]

Month	Mean average daily temp.	Current conditions		Scenario 1 (temperature increase by 3 °C)		Scenario 2 (temperature increase by 6 °C)	
		Low	High	Low	High	Low	High
December	Low	–35 °C	–31 °F	–32 °C	–26 °F	–29 °C	–20 °F
	High	–27 °C	–16.6 °F	–24 °C	–11 °F	–21 °C	–5.8 °F
July	Low	–1 °C	30.2 °F	2 °C	35.6 °F	5 °C	41 °F
	High	3 °C	37.4 °F	6 °C	42.8 °F	10 °C	50 °F

The low temperature threshold for warble fly activity is around 10 °C (50 °F) (Vistness et al. 2008, p. 1,312; Weladji et al. 2003, p. 81; Nilssen 1997, pp. 296, 300; Breyev 1961, as cited in Nilssen and Anderson 1995, p. 1,236). Farther north, temperatures became low enough that the warble fly is not able to survive and reproduce. Because parasitic fly harassment is low below 13 °C (55.4 °F), and because no oestrids fly below 10 °C (50 °F), this temperature threshold is significant for caribou, particularly the Peary caribou with respect to warble fly harassment. While scenario 1 will not lead to a significant increase in fly activity, if the temperature increases to 10 °C, as is the case in scenario 2, there is potential for warble fly harassment to increase, resulting in decreasing fitness, which could lead to increasing mortality due to disease, predation, and stochastic weather events. However, given the fact that Peary caribou reside in the northernmost range of the warble flies, the impact from harassment may be more limited.

*Nose Botflies*

Caribou experts consider the potential negative effect of the nose bot fly on caribou to be less than that of the warble flies. While the type of effects are similar between the two species of flies, such as causing avoidance behavior in caribou, the magnitude of those effects are not as extreme for the nose botfly as that caused by the warble fly. This species enters the caribou through the caribou's nose and lives in the caribou's throat for part of its life cycle (Whitney 1999, p. 2). The caribou exhibit distress from this species—they have been observed to duck their heads under water to avoid nose botflies (Witter et al. 2012, p. 284; Fauchald et al. 2007, pp. 496–497). An increase in the temperature by more than 10 °C in July could increase harassment of nose bot flies on the Peary caribou resulting in elevated energy expenditure and reduced forage time, although the severity will not be as high as for warble flies.

*Summary of Parasitic Harassment*

We note that a threat to a species and the species' response to that threat are not in general equally predictable or foreseeable. The demographic, ecological, and evolutionary responses of Peary caribou to threats from a warming climate are very complicated to predict, even though future warming is highly likely to occur. Oestrid flies could expand their range, and they could possibly negatively affect the Peary caribou. The lower temperature threshold for warble fly activity has been determined to be around 10 °C (50 °F), which occurs in the most northern part of the Peary caribou's range. A warmer climate is very likely to affect the distribution and abundance of warble flies. However, the best available information indicates that, due to the very low temperatures in the Peary caribou's range, oestrid harassment will not significantly negatively affect the Peary caribou now or in the foreseeable future (Jenkins

2012, personal communication; Hummel and Ray 2008, p. 217).

#### *Status of Existing Regulatory Mechanisms*

Under the Act, we are required to evaluate whether the existing regulatory mechanisms are adequate. As previously explained, the Peary caribou subspecies was listed as endangered under Canada's SARA in February 2011, due to its apparent decline in population size and due to expected changes in long-term weather patterns (Giroux et al. 2012, p. 4). SARA makes it an offense to kill, harm, harass, capture, or take an individual of a listed species that is endangered, threatened, or extirpated; possess, collect, buy, sell, or trade an individual of a wildlife species that is listed as extirpated, endangered, or threatened, or any part or derivative of such an individual; damage or destroy the residence of one or more individuals of a listed endangered or threatened species or of a listed extirpated species if a recovery strategy has recommended its reintroduction (SC Ch. 32.1 § 32.2). However, exceptions to SARA prohibitions enable Indigenous peoples to exercise their harvesting rights (COSEWIC 2015, p. 52). Additionally, permits may be issued under certain conditions if the activity is conducted for scientific research, benefits the species or is required to enhance its chance of survival in the wild, or affecting the species is incidental to carrying out the activity (S.C. Ch 73).

In the NWT, the Species at Risk Committee (SARC) designated the Peary caribou as threatened within their Territory in 2012 (as 40–60 percent of the subspecies reside within the NWT) and Peary caribou were listed as threatened under the Species at Risk (NWT) Act in 2014 (SARC 2012, entire). Both the Federal recovery strategy and territorial recovery strategy management plan are currently being developed for this subspecies (Giroux et al. 2012, p. 4). For efficiency, the NWT Peary Caribou Recovery Strategy and the Federal Peary Caribou Recovery Strategy will be combined into a single document; although this plan was anticipated to be completed in February 2016, it has been extended to December 2021 due to the complex nature of caribou management (Species at Risk Act 2019, unpaginated SARC 2015, entire).

The Government of Canada may base a decision to list a species, assessed by COSEWIC at some level of endangerment, on social or economic factors (Festa-Bianchet et al. 2011, p. 422). Management must consider that subsistence hunting by indigenous

people of all caribou is constitutionally guaranteed by treaty rights and land-claim agreements (Festa-Bianchet et al. 2011, pp. 423–424). In addition, subsistence hunting is not typically monitored by provincial wildlife management agencies, nor is reporting of barren-ground caribou harvest mandatory in Nunavut (Giroux et al. 2012, p. 12). They also note that a listing under SARA does not necessarily imply any additional conservation measures for lands directly under the control of the Federal Government (Festa-Bianchet et al. 2011, p. 423).

In Nunavut, the Department of Environment (DoE) is responsible for the management and conservation of caribou within its jurisdiction (Jenkins et al. 2011, p. 8). DoE shares management responsibility for Peary caribou with the Nunavut Wildlife Management Board and the Government of Canada. This responsibility is described in the Nunavut Land Claim Agreement 1993, Article 5 (Indian and Northern Affairs Canada 1993, as cited in Jenkins et al. 2011, p. 8).

In the NWT, the Government of NWT shares management responsibility for the Peary caribou with the Wildlife Management Advisory Council, the Inuvialuit Game Council, and the Government of Canada (AANDC 2012, p. 3). The relevant Canadian management authorities monitor aspects of caribou population health including body condition, diet, sex, and age, in part through harvest. Management and conservation actions are enforced through regulations under the Wildlife Act statutes of the Northwest Territories 2013 and through by-laws drafted at the community level by hunter and trapper committees and written into regulation. The Inuvialuit have taken a leadership role in the management of Peary caribou. For Banks Island, Peary caribou harvest quotas have been established for subsistence purposes (only hunting by Inuvialuit is allowed); quotas were implemented in 1991 and are reviewed annually. On NW Victoria Island, the Olokhaktomiut Hunters and Trappers Committee (Ulukhaktok) created specific zones that allow management actions such as enforcement of quotas (NWT 2016, p. 27; SARC 2012, pp. iii, xii; AANDC 2012, p. 3). In Resolute Bay, Nunavut, during the last decade, about 10–36 animals are hunted each year. Another 10–60 are hunted annually by residents on Ellesmere and Devon Island. In the Northwest Territory, annual harvest was reported to be 12 or fewer on Banks Island, and zero animals were taken from WQEI (COSEWIC 2015, p. 52). These numbers indicate that annual take of the Peary caribou by local

hunters remains low. Additionally, local communities have voluntarily curtailed hunting when the Peary caribou population is in decline. For example, as a result of the mass die-off between 1995 and 1997, the Resolute Bay Hunters and Trappers Association prohibited hunting of Peary caribou on Bathurst Island. A similar ban was instituted by local communities at Sachs Harbor on Banks Island (COSEWIC 2015, p. 52).

Protection of habitat for Peary caribou has increased in the past few decades (Gunn et al. 2011, pp. 26–27). Since the early 1990s, three national parks have been established in areas that are important for Peary caribou (Government of Canada 2015, entire; Gunn et al. 2011, p. 27). In 1992, summer habitat for Peary caribou on northern Banks Island became a protected area as Aulavik National Park. In 2001, approximately one-fifth of Ellesmere Island became protected as Quttinirpaaq National Park (formerly Ellesmere Island National Park Reserve); this park is the second largest national park in Canada. The Qausuittuq National Park (formerly proposed as Tuktsuquialuk National Park) was created to provide protection for Peary caribou on northern Bathurst Island in 2015. However, despite designation as protected areas, the actual conservation measures that apply to these “protected areas” are unclear. These protected areas provide some protection for the Peary caribou through prohibiting land-use activities such as those for resource exploration and development. Hunting activities in the park is regulated through a permitting system. However, they do not prohibit other human activity such as tourism and aircraft flight (Gunn et al. 2011, pp. 26–27), nor do they address climate change. Some caribou researchers indicate that protection for migratory caribou calving grounds is still needed (Festa-Bianchet et al. 2011, p. 430).

In summary, the combined NWT/Federal Peary Caribou Recovery Strategy has not been completed; as a result, we are unable to evaluate whether this recovery plan will effectively mitigate the factors that are negatively impacting the Peary caribou. However, the development and enforcement of the harvest quota system in addition to other management efforts by the Wildlife Management Advisory Committee (Northwest Territories) on NW Victoria Island and Banks Island, both areas where the caribou populations seem to be stable, indicate that current regulatory mechanisms may be having a positive impact on the subspecies.

### *Synergistic and Cumulative Effects*

Peary caribou live in a harsh environment, and their populations fluctuate in response to various factors. This subspecies is susceptible to abrupt changes in population size (Giroux et al. 2012, p. 4; Jenkins et al. 2011, pp. 9, 156). Population fluctuations are not the result necessarily of a single cause; they can occur due to a combination of environmental factors that are acting together.

Although the Peary caribou populations appear to have stabilized or slightly declined, the interactions within an ecosystem are complex, interrelated, and not linear and, therefore, complicated to predict (Tews et al. 2012, pp. 271, 275; Meier et al. 2011, p. 9–46). Subtle cumulative effects can occur when several factors act either singly at different times or in combination over the long term (Hovelsrud et al. 2011, p. 10–3; Miller et al. 2007, p. 33). The observed and the projected effects of a warming global climate are more extreme in northern high-latitude regions, in part due to the ice-albedo feedback mechanism in which melting of snow and sea ice lowers reflectivity and thereby further increases surface warming by absorption of solar radiation (Wang and Overland 2009, p. 1; IPCC 2007a, p. 30). A warmer climate will interact with other factors that are affecting the Peary caribou, and the combination of all of these factors acting together affects the subspecies more than if just one factor was adversely affecting the subspecies.

The most significant threat affecting this subspecies appears to be extreme weather events that cause massive starvation events and death among herds. Additionally, the predicted trends related to the effects of climate change (snowpack and ice events), the potential for changes in the composition of plant communities, the expected continuation of loss of sea ice (changing migratory routes and access to critical habitats), and the subspecies' tendency towards small and isolated populations are cumulatively affecting this subspecies now and are expected to continue into the foreseeable future (SARC 2012, p. xvii; Joly et al. 2010, p. 322; Chen et al. 2009a, entire; Chen et al. 2009b, entire; Post and Forchhammer 2008, as cited in Sharma et al. 2009, p. 2,559).

### **Determination of Peary Caribou Status**

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations (50 CFR part 424) set forth the procedures for determining whether a species meets the definition of “endangered species”

or “threatened species.” The Act defines an “endangered species” as a species that is “in danger of extinction throughout all or a significant portion of its range,” and a “threatened species” as a species that is “likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.” The Act requires that we determine whether a species meets the definition of “endangered species” or “threatened species” because of any of the following factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) Overutilization for commercial, recreational, scientific, or educational purposes; (C) Disease or predation; (D) The inadequacy of existing regulatory mechanisms; or (E) Other natural or manmade factors affecting its continued existence. For a more detailed discussion on the factors considered when determining whether a species meets the definition of “endangered species” or “threatened species” and our analysis on how we determine the foreseeable future in making these decisions, please see the *Regulatory Framework* section above.

### **Status Throughout All of Its Range**

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the Peary caribou. As with all biota, there are many uncertainties about this subspecies, including how changes in climate will affect its ecosystem, in part due to the complexity of biological systems and processes, and we have made reasonable conclusions about the potential impacts these changes may have on the species based on the best scientific and commercial information available on Peary caribou. Extreme weather events (heavy snow and icing) affect plant phenology and the availability of nutrients within its ecosystem, which influence the caribou's annual life cycle, thus affecting the size of annual populations. The effects of weather events are particularly a threat with respect to some of the island populations that are extremely small. The threats likely to affect the Peary caribou are disruption of migration routes as a result of loss of sea ice (Factor A), reduced accessibility of vegetation resulting from extreme weather events and a changing climate (Factor A), changes in plant composition (Factor A), and synergistic and cumulative effects of all factors working in concert.

The vast majority of Peary caribou's habitat is covered by snow and ice for

a significant portion of the year. Icing events are expected to increase (Steiner et al. 2013, p. 83; Turunen et al. 2009, p. 813, COSEWIC 2004, pp. 51–54). This increase will reduce caribou access to food, and icing events in the past have historically been linked to major die-offs (Jenkins et al. 2011, p. 6). The loss of sea ice is very likely to occur due to warming temperatures throughout the Canadian Arctic (Shepherd et al. 2012, pp. 1,188–1,189; Sharp et al. 2011, pp. 1, 4). However, the northern range of the Peary caribou, the Queen Elizabeth Islands, contains some of the thickest sea ice in the world (Engler and Pelot 2013, p. 25). The best available information supports a conclusion that continued persistence of sea ice in the QEI is likely to continue to facilitate the subspecies' ability to migrate between the different islands up to the year 2080 (Jenkins et al. 2015, p. 4). The other extant subpopulation, the Banks Island group, now likely completes its life cycle on Banks Island. This subpopulation will not be as affected by long-term changes in sea ice. Overall, due to the continued persistence of sea ice in the QEI and the migration behavior of the caribou farther south, the effects of changes in sea ice on the Peary caribou will be limited.

The effects of climate change can also lead to changes in plant composition. The current trend suggests a decline in lichen availability and increase in vascular foliage (Chen *et al* 2009a, pp. 19, 25–27). However, the increase in shrubs does not necessarily translate to an increase in the nutritional quality for the subspecies (COSEWIC 2015, p. 45).

As a subspecies listed as endangered under SARA, hunting of the Peary caribou is prohibited except when a permit is issued (Giroux et al. 2012, p. 4). For non-indigenous individuals, a permit can be issued if an activity is conducted for research, benefits the subspecies, or the subspecies affected is incidental to carrying out an activity (COSEWIC 2015, p. 52). Indigenous communities are excepted from this restriction for the purpose of exercising their harvesting rights, and coordination between these communities and provincial governments help set an annual quota. Additionally, local communities will sometimes ban hunting on certain years when the subspecies population is too low (COSEWIC 2015, p. 52). These continued collaborative efforts between national, provincial, and local communities in areas where the caribou populations seem to be stable suggest hunting of the Peary caribou is adequately regulated.

These factors (extreme weather events that cause mass starvation and death, changes in plant composition due to warming weather, loss of sea ice, small and isolated populations, synergistic and cumulative effects) affecting this subspecies are predicted to occur throughout its entire range with southern subpopulations experiencing a greater impact than subpopulations found farther north.

We evaluated all relevant threats, including any regulatory mechanisms and conservation measures addressing these threats. The primary threats are the effects of climate change on icing events and sea-ice loss. We find that overall sea-ice loss is projected to continue for the whole Canadian Arctic; however, this loss will not be as severe within the subspecies' range. Furthermore, recent presence and absence surveys have resulted in additional observations of the subspecies within its range.

In section 3(6), the Act defines an "endangered species" as any species that is "in danger of extinction throughout all or a significant portion of its range" and in section 3(20), defines a "threatened species" as any species that is "likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range." While the subspecies has experienced previous population decline due to icing events, the population was able to rebound within two generations (COSEWIC 2015, p. vi). Additionally, reliable climate change models for the High Arctic where the subspecies is found project the likely persistence of sea ice during the winter time ensuring connectivity between the islands throughout the subspecies range out to the foreseeable future of 2050, even under high emission scenarios (Mallory and Boyce 2018, p. 2,197; Jenkins et al. 2015, p. 4). Continued migration between islands will allow the subspecies access to food resources during the wintertime thereby allowing the subspecies to withstand stochastic events caused by icing events. In addition, the continued presence of thick sea ice will also limit shipping traffic through the subspecies habitat. Lastly, continued management by Canadian governmental authorities in cooperation with local indigenous communities have limited the effects of hunting on the species. Overall, the Peary caribou consists of sufficient currently robust populations such that threats currently acting on the subspecies do not put it in danger of extinction. In addition, we conclude that the threats will not within the foreseeable future rise to the level where

the subspecies is likely to no longer have sufficient robust populations. In other words, the subspecies is not likely to become endangered within the foreseeable future.

After evaluating threats to the species and assessing the cumulative effect of the threats under the section 4(a)(1) factors, we find that the effects of climate change and other potential threats, alone or in combination, do not rise to a level that causes this species to meet the definition of a threatened species or an endangered species throughout its entire range. Thus, after assessing the best available information, we conclude that Peary caribou is not in danger of extinction or likely to become so in the foreseeable future throughout all of its range.

#### **Status Throughout a Significant Portion of Its Range**

Under the Act and our implementing regulations, a species may warrant listing if it is in danger of extinction or likely to become so in the foreseeable future throughout all or a significant portion of its range. Having determined that the Peary caribou is not in danger of extinction or likely to become so in the foreseeable future throughout all of its range, we now consider whether it may be in danger of extinction or likely to become so in the foreseeable future in a significant portion of its range—that is, whether there is any portion of the species' range for which it is true that both (1) the portion is significant; and, (2) the species is in danger of extinction now or likely to become so in the foreseeable future in that portion. Depending on the case, it might be more efficient for us to address the "significance" question or the "status" question first. We can choose to address either question first. Regardless of which question we address first, if we reach a negative answer with respect to the first question that we address, we do not need to evaluate the other question for that portion of the species' range.

In undertaking this analysis for Peary caribou, we choose to address the status question first—we consider information pertaining to the geographic distribution of both the species and the threats that the species faces to identify any portions of the range where the species is endangered or threatened. We examined the following threats: Icing events, loss of sea ice, changes in plant composition, parasitic harassment, and shipping, including cumulative effects. For the Peary caribou, regional variations in threats are related to the latitudinal differences with the effects of climate change (sea-ice loss, icing events, and parasitic harassment) being

greater on the southern subpopulations than on the northern subpopulation. Additionally, shipping traffic is more concentrated in the southern portion of the Canadian Arctic Archipelago. The cumulative effects of these threats mean that the four subpopulations of Peary caribou (Banks-Victoria islands, WQEI, EQEI, and Prince of Wales-Somerset-Boothia Peninsula) are experiencing different population trends and threat responses.

After experiencing population crashes in the 1990s due to icing events, the WQEI and EQEI now have stable or increasing population trends and now comprise 82 percent of the subspecies total populations (COSEWIC 2015, p. 41). Additionally, the northern portion of the Canadian Arctic archipelago contains the thickest sea ice in the Arctic region and this ice is replenished by multi-year flowing in from the Arctic Ocean (Li et al. 2020, p. 1; Howell et al. 2015, p. 1,623). The thickness of the sea ice around the Queen Elizabeth Islands contributed to shipping lanes being primarily located farther to the south (Engler and Pelot 2013, p. 9). The persistence of sea ice in this region allows the WQEI and EQEI Peary caribou subpopulations to be able to migrate between different islands. The continued ability to migrate between different islands will ensure the subspecies have access to sufficient food resources and help it recover from population fluctuations due to stochastic events. Overall, the stability as well as the previously noted lesser impact from threats related to climate change and shipping traffic for these most populous northern subpopulations suggests that the threats acting on these subpopulations do not rise to the level where the species is in danger of extinction or likely to become in danger of extinction within the foreseeable future.

While the two QEI subpopulations now have stable population trends, the Banks-Victoria island subpopulation and the Prince of Wales-Somerset-Boothia Peninsula island complex was experiencing a declining population trend. The Banks-Victoria island subpopulation also experienced a decline in the 1980s due to icing events. While the subpopulation in Victoria Island has yet to recover, the subpopulation on Banks Island has stabilized since 1992 albeit at a lower level (COSEWIC 2015, p. VI). Unlike the Queen Elizabeth Islands subpopulation discussed above, which regularly migrates between the smaller islands of the QEI, the Banks Island subpopulation, as suggested by the lack of outward gene flow, might not migrate

as often as other Peary caribou subpopulations (COSEWIC 2015, p. 26). This means that fluctuations in sea-ice level may not affect this subpopulation to the degree of other subpopulations of the Peary caribou. Therefore, the biggest threat affecting this subpopulation is likely to be icing events.

While icing events have and will continue to play a role in dramatic population crashes for this subpopulation, the population trend as noted above has remained stable since 1992 (COSEWIC 2015, p. 35). This overall trend persists despite an extreme weather event that took place in the Canadian Arctic Archipelago in 1996–1997 that resulted in a population crash of the WQEI subpopulation (COSEWIC 2015, p. 38; Jenkins et al. 2011, p. 120). Going into the foreseeable future, while climate models do project increases in the frequency and severity of icing events for Banks Island, there is greater uncertainty of the effect this will have on the population trend of this subpopulation (COSEWIC 2015, p. 47). Increased icing events could increase mortality, but reduced snow depth as a result of increases in temperature could result in greater access to foliage. That said, based on historical population trends, we have observed this subpopulation's ability to persist and rebound after an icing event, suggesting that it possesses sufficient ability to recover from stochastic icing events. This long-term stability leads us to conclude that while the Banks Island subpopulation might not return to its historical level, the threats acting on the subpopulation do not rise to the level where the species is in danger of extinction or likely to become in danger of extinction within the foreseeable future.

While the Banks Island subpopulation has stabilized, the Prince of Wales-Somerset-Boothia Peninsula islands complex is suspected to be near zero and may be extirpated due to a number of possible factors including wolf predation, extreme weather, hunting, and disease. The potential extirpation of this subpopulation warranted further consideration due to its potential effects on the subspecies as a whole. We next evaluated whether this subpopulation may be significant to the Peary caribou. The Service's most-recent definition of "significant" has been invalidated by the courts (*Desert Survivors v. Dep't of the Interior*, No. 16–cv–01165–JCS (N.D. Cal. Aug. 24, 2018)). Therefore, we evaluated whether the Prince of Wales-Somerset-Boothia subpopulation could be significant under any reasonable definition of "significant." To do this, we evaluated whether this

subpopulation may be biologically important to the species.

The Prince of Wales-Somerset-Boothia subpopulation contains very few individuals and may be extirpated. The decline or potential loss of this subpopulation will reduce the overall abundance of the subspecies and reduce its range. We do not have information on the genetic uniqueness of this subpopulation. That said, while the subspecies' genetic diversity will be affected by the decline of this subpopulation, historical genetic exchanges between this subpopulation and the other subpopulations mean this subpopulation is likely not genetically unique. The loss of this subpopulation would likely have a limited effect on overall genetic diversity. Overall, while the loss of this subpopulation would have some effect on the subspecies as a whole, it would likely be minimal, and the Peary caribou has historically experienced wide fluctuation in its overall population. In the past, other subpopulations experienced catastrophic die-off of up to 80 to 90 percent due to icing events and were able to recover within a few decades. This could allow other subpopulations to recolonize the island complex in the future. Therefore, because of the high number of individuals and the stability of other subpopulations as well as the potential for recolonization by those subpopulations, we determined that the Prince of Wales-Somerset-Boothia subpopulation is not biologically significant to the Peary caribou.

In summary, the species is not in danger of extinction or likely to become so in the foreseeable future in any significant portion of its range. Our approach to analyzing SPR in this determination is consistent with the court's holding in *Desert Survivors v. Department of the Interior*, No. 16–cv–01165–JCS, 2018 WL 4053447 (N.D. Cal. Aug. 24, 2018).

#### Determination of Status

Our review of the best available scientific and commercial information indicates that the Peary caribou does not meet the definition of an endangered species or a threatened species in accordance with sections 3(6) and 3(20) of the Act. Therefore, we find that listing the Peary caribou is not warranted at this time.

## II. Proposed Listing Determination—Dolphin and Union Caribou

### Background

#### Description

The Dolphin and Union caribou is a medium-sized caribou that is larger than

the Peary caribou and smaller than the larger mainland barren-ground caribou. The pelage of Dolphin and Union caribou is slightly darker than that of the Peary caribou and lighter than the barren-ground caribou. Its winter coat is a distinctive white with a light-brown back and white legs. In the summer, the coat becomes darker brown on the back. This entity does not display the pronounced flank stripe typical of barren-ground caribou. Additionally, its antlers are much like that of a Peary Caribou and the antler velvet is pale gray, which is distinct from the dark brown antler velvet of mainland barren-ground caribou (SARC 2013, p. vi).

#### Taxonomy

The Dolphin and Union caribou has had a particularly confusing taxonomic history (COSEWIC 2011, p. 25). Most of the early taxonomic history of the Dolphin and Union caribou is identical to the Peary caribou. Therefore, this history can be found in the above section (Peary Caribou: *Taxonomy*).

In 2003, participants in a workshop on caribou taxonomy considered the existing classification to be insufficient to demonstrate the level of diversity that exists between the subspecies of caribou (McFarlane et al. 2003, pp. 127–128). The workshop concluded that conservation units should reflect the biodiversity and preserve the uniqueness of each caribou population in the Canadian Arctic Archipelago. They recommended the establishment of conservation units below the subspecies level to preserve the caribou (*Rangifer tarandus*) of the Canadian Arctic Archipelago (McFarlane et al. 2009, p. 105).

Several studies have postulated that Dolphin and Union caribou are genetically distinct from either the Peary caribou or the barren-ground caribou (McFarlane et al. 2013, pp. 124–126; Nagy et al. 2011, pp. 190, 194; Poole et al. 2010, p. 415). Dolphin and Union caribou have a high level of genetic distinctness (COSEWIC 2009, p. 117). Additionally, the Dolphin and Union caribou are genetically more related to the mainland populations than to the Peary caribou that occur on Victoria Island. However, the Dolphin and Union caribou are still genetically distinguished from both barren-ground caribou and Peary caribou (McFarlane et al. 2009, as cited in COSEWIC 2011, p. 25; McFarlane et al. 2003, pp. 124–126).

In May 2004, COSEWIC reassessed the status of the three Peary caribou populations and reviewed the designation. The 2004 assessment defined the Dolphin and Union population as separate from the Peary



caribou and from the barren-ground caribou and recommended a taxonomic revision of the Dolphin and Union population as *R. t. groenlandicus x pearyi* to distinguish the population from the mainland barren-ground caribou, *R. t. groenlandicus*, and from the Peary caribou, *R. t. pearyi* (McFarlane et al. 2013, pp. 124–126; Nagy et al. 2011, pp. 184, 190, 194; Poole et al. 2010, p. 415). While the 2004 COSEWIC report recommended the reclassification of the Dolphin and Union caribou, questions remained over whether the entity should be considered as a subspecies or a geographically distinct population.

In 2011, COSEWIC prepared to conduct a reassessment of all caribou in Canada; in preparation for the assessment, they published a document detailing “designatable units” (DU), geographically based areas created for management purposes, of caribou. A DU can be a species, subspecies, variety, or geographically or genetically distinct population that may be assessed by COSEWIC, where such units are both discrete and evolutionarily significant. In this assessment, COSEWIC confirmed the status of the Dolphin and Union population as a DU (COSEWIC 2011, pp. 10, 25). The Committee noted that the process of designating DUs takes into account taxonomy, phylogenetics, genetics, morphology, life history, and behavior of the species, as well as biogeographical information such as range disjunction and the ecogeography in which the species is found.

In its 2011 report, COSEWIC discussed the changes in taxonomy for the Dolphin and Union population and included the scientific name *R. t. groenlandicus x pearyi*, as distinct from the barren-ground caribou (*R. t. groenlandicus*) and from the Peary caribou population (*R. t. pearyi*) (COSEWIC 2011, entire). This classification does not mean that the Dolphin and Union subpopulation is of hybrid origin but is due to taxonomical ambiguity. The current classification then is a way for researchers to distinguish the Dolphin and Union subpopulation from the barren-ground caribou and the Peary caribou (Ray 2017, pers. comm.). However, this reclassification has not yet been formalized and the Dolphin and Union herd is currently classified as being part of the barren-ground caribou subspecies. Given the established taxonomic classification of the Dolphin and Union herd as part of *R. t. groenlandicus*, we evaluated whether the Dolphin and Union caribou represent a distinct population segment (DPS).

### Evaluation of the Dolphin and Union Caribou Subpopulation as a Distinct Population Segment

Under section 3(16) of the Act, we may consider for listing any species, including subspecies, of fish, wildlife, or plants, or any DPS of vertebrate fish or wildlife that interbreeds when mature (16 U.S.C. 1532(16)). Such entities are considered eligible for listing under the Act (and, therefore, are referred to as listable entities), should we determine that they meet the definition of an endangered or threatened species.

Under the Service’s DPS Policy (61 FR 4722, February 7, 1996), three elements are considered in the decision concerning the determination and classification of a possible DPS as threatened or endangered. These elements include:

- (1) The discreteness of a population in relation to the remainder of the species to which it belongs;
- (2) The significance of the population segment to the species to which it belongs; and
- (3) The population segment’s conservation status in relation to the Act’s standards for listing, delisting, or reclassification (*i.e.*, is the population segment endangered or threatened).

A population segment of a vertebrate taxon may be considered discrete under the DPS policy if it satisfies either one of the following conditions:

- (1) It is markedly separated from other populations of the same taxon as a consequence of physical, physiological, ecological, or behavioral factors. Quantitative measures of genetic or morphological discontinuity may provide evidence of this separation.
- (2) It is delimited by international governmental boundaries within which differences in control of exploitation, management of habitat, conservation status, or regulatory mechanisms exist that are significant in light of section 4(a)(1)(D) of the Act.

If a population segment is considered discrete under one or more of the conditions described in the Service’s DPS policy, its biological and ecological significance will be considered in light of Congressional guidance that the authority to list DPSs be used “sparingly” (see Senate Report 151, 96th Congress, 1st Session). In making this determination, we consider available scientific evidence of the DPS’s importance to the taxon to which it belongs. Since precise circumstances are likely to vary considerably from case to case, the DPS policy does not describe all the classes of information that might be used in determining the biological and ecological importance of a discrete

population. However, the DPS policy describes four possible classes of information that provide evidence of a population segment’s biological and ecological importance to the taxon to which it belongs. As specified in the DPS policy, this consideration of the population segment’s significance may include, but is not limited to, the following:

- (1) Persistence of the DPS in an ecological setting unusual or unique to the taxon;
- (2) Evidence that loss of the DPS would result in a significant gap in the range of a taxon;
- (3) Evidence that the DPS represents the only surviving natural occurrence of a taxon that may be more abundant elsewhere as an introduced population outside its historical range; or
- (4) Evidence that the DPS differs markedly from other populations of the species in its genetic characteristics.

To be considered significant, a population segment needs to satisfy only one of these criteria, or other classes of information that might bear on the biological and ecological importance of a discrete population segment, as described in the DPS policy. Below, we summarize discreteness and significance for the Dolphin and Union caribou.

#### Discreteness

The Dolphin and Union caribou are markedly separate from other populations of the barren-ground caribou (*Rangifer tarandus groenlandicus*). Behaviorally, the Dolphin and Union caribou is a migratory population that calves on Victoria Island in the summer and winter on coastal tundra on the mainland. In other words, the Dolphin and Union caribou spends part of its life cycle on the mainland and the other part on an island. This is in contrast to the remainder of the subspecies that either spend their entire life cycles on the mainland or on an island. Mainland barren-ground caribou subpopulations migrate between the tundra and boreal forest habitats. Meanwhile, other barren-ground subpopulations (such as the ones on Baffin Island and Southampton Island) spend their entire life on an island (McFarlane et al. 2016, p. 2). In addition to behavioral differences, the Dolphin and Union caribou is also geographically isolated from other members of the subspecies during part of its life cycle. Although the subpopulation’s range overlaps with other barren-ground caribou subpopulation during the wintering months on the mainland, while on Victoria Island, the Dolphin and Union



caribou is geographically isolated from other subpopulations of the barren-ground caribou on the mainland (McFarlane et al. 2016, p. 16).

Morphological and genetic discontinuities between Dolphin and Union caribou and other subpopulations of the barren-ground caribou provide further evidence of this separation. Morphologically, the Dolphin and Union caribou are smaller and lighter in color than the mainland barren-ground caribou (McFarlane et al. 2009, p. 125). Genetically, the Dolphin and Union caribou is more closely related to the mainland barren-ground caribou than other island caribou it shares Victoria Island with (McFarlane et al. 2009, p. 125). On the other hand, despite being more closely related, the Dolphin and Union caribou also maintains genetic distinctness from mainland subpopulations (McFarlane et al. 2016, pp. 8, 14; McFarlane et al. 2009, p. 125; Zittlau 2004, p. 113). Phylogenetic analyses conducted on mitochondrial DNA reveals that during the caribou recolonization of the Arctic at the end of the last Ice Age, the Dolphin and Union caribou diverged from the other barren-ground caribou subpopulations around approximately 3000 years ago (McFarlane et al. 2016, pp. 15–16).

In summary, we determine that the Dolphin and Union caribou is markedly separated from neighboring caribou subpopulations. At different times of the year, the Dolphin and Union caribou is physically (geographically) and reproductively isolated from the mainland subpopulations. The Dolphin and Union caribou also exhibit unique migratory behavior and genetic data supports the separation of the subpopulation from the barren-ground caribou. Therefore, we consider the Dolphin and Union caribou subpopulation to be discrete per our DPS policy.

#### Significance

We found that the Dolphin and Union caribou is significant to the *Rangifer tarandus groenlandicus* taxon because it differs markedly from other members in the taxon in its genetic characteristics.

The barren-ground caribou comprises multiple subpopulations found in the Yukon, Northwest Territories, and Nunavut (which includes Baffin Island and the islands of the Hudson Bay) (McFarlane et al. 2016, p. 2). The Dolphin and Union caribou is one of the few populations of the barren-ground caribou subspecies that uses both the islands of the Canadian Arctic Archipelago and the mainland as part of its range (Nagy et al. 2011, p. 2,342). As mentioned above, barren-ground

caribou have three genetic variants: The mainland subpopulations, the Southampton Island subpopulations, and the Dolphin and Union caribou subpopulations. A study of allelic frequency shows that each subpopulation forms a unique cluster (McFarlane et al. 2016, p. 9), with the Dolphin and Union caribou being closer genetically to the mainland subpopulations than the Southampton subpopulation. This conclusion is further supported by a comparison of the fixation index ( $F_{ST}$  value) between the multiple subpopulations including the Southampton, Dolphin and Union, and different mainland subpopulations that yielded similar conclusion (McFarlane et al. 2016, p. 9; McFarlane et al. 2014, p. 83). The  $F_{ST}$  value for the Southampton subpopulation varies between 0.436 to 0.527. For the Dolphin and Union caribou, values vary between 0.059 and 0.067. For the mainland subpopulations, values vary between  $-0.004$  (a calculation output that can be considered to be a zero) and 0.038. An  $F_{ST}$  value of zero means that the two subpopulations being compared are genetically identical while a value of one suggests that it is possibly a different species. As can be seen here, the Southampton subpopulation has the highest level of genetic distinctness relative to the other two. While not as genetically distinct, the Dolphin and Union caribou still possess an  $F_{ST}$  value that is greater than the mainland subpopulations, by a large enough margin suggesting genetic distinctness from the rest of the subspecies (McFarlane et al. 2016, p. 9). This conclusion is supported by other publications which also identified the Dolphin and Union caribou as being distinct from all other mainland barren-ground caribou subpopulations (McFarlane et al. 2014, p. 83; Zittlau et al. 2009, as cited in COSEWIC 2011, p. 25; Zittlau 2004, p. 113).

In addition to their allelic differences, a study of the gene flow of the Dolphin and Union caribou supports the genetic distinctness of the subpopulation. Gene flow of the Dolphin and Union caribou appears to flow in a southward direction. That is, there is an outward flow of the Dolphin and Union caribou gene into neighboring mainland barren-ground caribou subpopulation located to the south of Victoria Island. However, there is a slower gene flow of the mainland barren-ground caribou into the Dolphin and Union caribou subpopulation (McFarlane et al. 2014, p. 88). This phenomenon can be explained by the behavioral difference between male and female caribou. While female

caribou display site fidelity, male caribou tend to wander farther afield. Because female Dolphin and Union calve exclusively on Victoria Island, they are geographically isolated from mainland barren-ground caribou subpopulation (Nagy et al. 2011, p. 2,335). On the other hand, there is greater detection of first- and second-generation male migrants among other subpopulations of caribou (McFarlane et al. 2016, pp. 11, 14). This result suggests that some male Dolphin and Union caribou may migrate to other barren-ground caribou subpopulations resulting in outward gene flow. Additionally, there are periods of multiple years where the dispersal rate is zero meaning that there was no gene flow out of the subpopulation (McFarlane et al. 2016, p. 14). Overall, the gene flow patterns reinforce the genetic data, demonstrating that while there is occasional genetic exchange between Dolphin and Union caribou and the mainland barren-ground caribou subpopulations, the Dolphin and Union caribou maintains its genetic uniqueness.

This conclusion is supported by other studies that identified the genetic distinctness of Dolphin and Union caribou from other caribou subpopulations (McFarlane et al. 2014, pp. 82–83; McFarlane et al. 2009, p. 125; Zittlau 2004, p. 113). Additionally, the Dolphin and Union caribou experience geographic isolation on Victoria Island during calving season which contributes to a limited outward gene flow between the Dolphin and Union caribou and other populations of *Rangifer tarandus groenlandicus* (Nagy et al. 2011, p. 2,335). Although there are some genetic exchanges with the mainland barren-ground caribou through the migration of male Dolphin and Union caribou, the subpopulation geographic and genetic isolation likely contributed to its genetic uniqueness. Thus, we find that the Dolphin and Union caribou differs markedly from other populations of the species in its genetic characteristics.

#### Summary

Given that both the discreteness and the significance elements of the DPS policy are met for the Dolphin and Union caribou, we find that the Dolphin and Union caribou constitutes a valid DPS of *Rangifer tarandus groenlandicus*. Because we find the Dolphin and Union caribou subpopulation to be both discrete and significant, we evaluate whether this DPS is endangered or threatened based on the Act's definitions of those terms and a review of the factors listed in section 4(a) of the Act.

### Life History

Dolphin and Union caribou have an average lifespan of 13–15 years. Males typically reach breeding age at around 4 years and females between 2–3 years (COSEWIC 2004, p. 28). Approximately 80 percent of females will have one calf annually; females will generally reproduce between the ages of 2 and 13 years and males between 4 and 13 years (Gunn et al. 1998, as cited in COSEWIC 2004, p. 28). The annual rut usually occurs in late autumn, and calving occurs in late spring, with variation depending on the latitude and environmental conditions (COSEWIC 2011, p. 11; Gates et al. 1986, pp. 216–222).

Calf production and recruitment of Dolphin and Union caribou are highly dependent on the female's physical condition, specifically their fat reserves (Cameron et al. 1992, p. 480). The nutritional condition of the female is dependent on the prevailing environmental conditions. As a result, there is high variability in annual pregnancy rate, calf production, and calf recruitment. Depending on the environment, pregnancy rates can vary from 0 to 100 percent. In severe winters, recruitment of calves can drop to 0 percent (COSEWIC 2004, pp. vii, 28). Under favorable conditions, roughly 50 percent of calves survive (Bergerud 1978, as cited in Miller et al. 2007, p. 25). In free-ranging caribou populations, the proportion of males to females averages 40 to 60 respectively (Miller et al. 2007, p. 25).

### Range and Migration

The range of the Dolphin and Union caribou consists of Victoria Island and the Canadian mainland, covering a surface area estimated to be 499,449 km<sup>2</sup> (192,838mi<sup>2</sup>). That range crosses two Canadian territories: Nunavut and the NWT (SARC 2013, p. xiv; Governments of NWT and Nunavut 2011, p. 2; Poole et al. 2009, p. 415). Dolphin and Union caribou calve during the summer months on Victoria Island before moving south to the coast to rut. They then cross the sea ice of the Coronation Gulf, Dolphin and Union Strait, and Dease Strait to their wintering grounds on the mainland (SARC 2013, p. xiv; Nagy et al. 2011, p. 2,335; Poole et al. 2009, pp. 416–417). While seasonal migration between Victoria Island and mainland appears to be annual behavior of the Dolphin and Union caribou, historically, when their population was much smaller, the Dolphin and Union caribou was only observed on Victoria Island (Gunn et al. 2011, p. 37). Some caribou biologists

suspect that the range of the Dolphin and Union population may be expanding southward, but any change in its range remains inconclusive (Governments of NWT and Nunavut 2011, p. 8). The Peary caribou and the Dolphin and Union range has the potential to overlap in the northwest part of Victoria Island, and the populations may make contact with each other as each population may occupy this habitat during the summer. Peary caribou use the region for wintering and summer grounds, while a few Dolphin and Union may use it during the summer. On the other hand, during the rutting season (generally occurring in October and November), Dolphin and Union caribou are geographically isolated from other caribou (Nagy et al. 2011, p. 2,345; Poole et al. 2010, p. 415; McFarlane 2009, p. 126).

### Population Estimates and Trends

In contrast to the Peary caribou, which occur in small groups consisting of three to five individuals known as “subpopulations” or “clusters” (Jenkins et al. 2011, p. 11), the Dolphin and Union caribou consists of a single herd with an estimated population in 2015 of 18,413 (Leclerc et al., in litt. 2017).

The Dolphin and Union population was first recorded in 1852 and was observed moving south, crossing the Dolphin and Union Strait, a part of the Northwest Passage, from Victoria Island to the mainland of Canada to spend the winter, and was recorded returning again in the spring (Manning 1960, pp. 7–10). Using population densities as a proxy, the number of caribou on Victoria Island was extrapolated to 100,000 animals, which was likely an unrealistically high estimate (SARC 2013, p. 86; Jenness 1920, pp. 166–167 and Stefansson 1920, pp. 135–136, as cited in Manning 1960, p. 8). By the mid-1920s, estimates of caribou crossing the Dolphin and Union Strait during the fall migration dropped to fewer than 30 caribou, and the migration completely stopped in 1924. The decline in caribou numbers was found most likely to be related to the introduction of firearms and intense hunting of caribou in the region, possibly combined with effects from icing events (Gunn et al. 2011, p. 37; COSEWIC 2004, p. 41; Manning 1960, pp. 9–10). Since the 1920s, the Dolphin and Union caribou population has increased. By 1949, the population had increased to about 1,000, and by 1980, the population increased to approximately 3,424 ± 522 (this estimate likely included calves) (COSEWIC 2004, p. 41). In the 1990s, the Dolphin and Union caribou rebounded even further

and resumed its historical winter migration crossing the strait to the mainland (COSEWIC 2004, p. 41; Gunn et al. 1997, entire). A 1994 survey of the Dolphin and Union calving ground estimated 14,500 ± 1,015 animals (Nishi and Buckland 2000, p. 42). However, this survey underestimated the number of caribou, as it failed to define the calving ground and radio-collared females were found in eastern Victoria Island, which was an area not included in the survey (Leclerc 2017, in litt.).

In 1997, a systematic aerial survey method was developed to count the Dolphin and Union caribou during the staging and rutting period on the south coast of Victoria Island (Nishi and Gunn 2004, pp. 4–9). The survey counted 5,087 caribou and estimated the herd total population to be 27,948 ± 3367 individuals (Nishi and Gunn 2004, p. iii). That methodology was consistently used in following surveys. In 2007, researchers found 21,753 ± 2,343 caribou within the survey area. This number was subsequently corrected to account for caribou that did not yet reach the coast during the survey. Therefore, the 2007 corrected Dolphin and Union population was estimated to be 27,787 ± 3,613, and this correction factor was also applied to the 1997 survey estimate, giving an estimate of 34,558 ± 4,283 caribou; these population estimates indicate that the population was at best stable or in a slight decline (Dumond and Lee 2013, p. 334). However, the 2015 Dolphin and Union population survey projected a decline with the population at that time estimated to be 18,413 caribou (Governments of the Northwest Territories and Nunavut 2018, p. 36; Leclerc et al. 2017, in litt.; McFarlane et al. 2016, pp. 2–3).

### Diet and Nutrition

Calving is closely related to plant phenology (timing of plant blooming based on daylight and temperature) (COSEWIC 2004, p. vii). Seasonal feeding is critical for various life stages such as lactation and growth, increasing fat reserves during the summer, and survival during the winter (COSEWIC 2004, pp. vii, 28–35). Summer and winter forage varies based on availability and season, but Arctic caribou prefer willow (*Salix arctica*), sedges (*Carex* species), purple saxifrage (*Saxifraga oppositifolia*), grasses, forbs, and lichens (COSEWIC 2004, pp. 23, 32–34). During the summer, the Dolphin and Union caribou acquires most of its dietary protein from sedges, grasses, and willows (SARC 2013, p. 32; Joly et al. 2010, p. 322; COSEWIC 2004, pp. 32–33). During the winter on the mainland,

caribou diet consists mostly of moss and willow and lichen (SARC 2013, p. 33).

Under ideal conditions, caribou forage by pushing soft snow off the vegetation with their noses. When snowpack is deeper, they will dig small craters with their hooves in the snow to reach the vegetation (COSEWIC 2004, p. 35). However, snow conditions can limit the accessibility to vegetation. Rain in late October and November can cause a layer of ice to form over the vegetation, which may prevent caribou from accessing it (COSEWIC 2004, pp. 33–34). Snowfall within the range of the Dolphin and Union caribou varies, and the amount of snow is determined by several variables, such as terrain, wind speed and direction, and air and ground temperatures (Sturm 2003, as cited in Maher 2012, p. 84). During the winter, caribou tend to forage in drier, exposed areas that have less snow (Miller and Gunn 2001, p. 221).

### Conservation Status of the Dolphin and Union Caribou

The caribou species (*Rangifer tarandus*) is recognized at the species level as “vulnerable” by the International Union for Conservation of Nature (IUCN 2012, unpaginated). Individual caribou subspecies are not differentiated by IUCN and as such, IUCN has made no assessment of the Dolphin and Union caribou. The IUCN Red List of Threatened Species identifies and documents those species considered to be most in need of conservation attention if global extinction rates are to be reduced, and the IUCN Red List is recognized as an approach for evaluating the conservation status of plant and animal species. However, designations by the IUCN convey no actual protections. COSEWIC (2004, entire) evaluated the status of Dolphin and Union caribou and assessed them as special concern. In February 2011, they were added to Canada’s Federal *Species at Risk Act* as Special Concern (SARC 2013, p. 97). The recovery plan for the Dolphin and Union caribou published in 2018. We will discuss the recovery plan in greater detail in Status of Existing Regulatory Mechanisms (Governments of the Northwest Territories and Nunavut 2018, entire; SARC 2013, p. 97).

### Regulatory and Analytical Framework

We apply the same regulatory and analytical framework to the Dolphin and Union as we apply to other species. Please consult the *Regulatory Framework* and *Analytical Framework* sections above in the discussion of Peary caribou for details.

### Summary of Biological Status and Threats

In this section, we review the biological condition of the species and its resources, and factors that affect the species’ overall persistence. The Dolphin and Union caribou lives in a harsh environment that is sparsely populated with people. Ecosystems can be complex, and factors affecting the health and viability of species are not always readily apparent. Caribou biologists have suggested a number of factors that may contribute to the decline of the Dolphin and Union caribou. In addition to the major threats we discussed below, we also assessed other threats that we concluded to have minor effects on the species; those assessments can be found in our Species Report. The minor threats include deterioration of the quality and quantity of nutrients available within their habitat, predation (primarily by wolves), and outbreak of parasites or disease. The major threats that will be discussed below are:

- Sea-ice loss;
- Hindered ability to seasonally migrate due to lack of sea ice and possible drowning;
- Hunting;
- Disturbance due to development, oil and gas exploration, or shipping.

A primary factor affecting the Dolphin and Union caribou is the timing of freeze-up and sea-ice connectivity; these conditions are affected by ships disturbing the gray ice (young ice whose thickness is less than 4–6 inches), ice-breaking activities for tourism and oil and gas industries, and potential loss of sea ice due to climate change (Leclerc 2017, *in litt.*; Dumund and Lee 2013, p. 335; Poole et al. 2010, entire). These related factors are discussed in two reports: Sea Ice and Migration of the Dolphin and Union Caribou Herd in the Canadian Arctic: An Uncertain Future (Poole et al. 2010, entire) and the species status report prepared by the Species at Risk Committee for the Dolphin and Union caribou, published in December 2013, for the Northwest Territories (SARC 2013, entire). Additionally, a draft management plan for the Dolphin and Union caribou was made available for public comment in the spring of 2017 after a reassessment conducted by COSEWIC in 2015–2016 (Leclerc 2017, *in litt.*). We refer readers to these documents, which are available at [www.regulations.gov](http://www.regulations.gov), Docket number FWS–HQ–ES–2019–0014 for more detailed information. Here, we summarize the information.

### Climate Change

Changes in climate and weather patterns are suspected to be a major contributor to the decline of this caribou (Hansen et al. 2011, pp. 1,917, 1,920–1,922; Miller and Barry 2009, p. 176; Prowse et al. 2009a, p. 269; Tews et al. 2007a, pp. 95–96; COSEWIC 2004, pp. viii, 55–58). The term “climate change” thus refers to a change in the mean or variability of one or more measures of climate (*e.g.*, temperature or precipitation) that persists for an extended period, typically decades or longer, whether the change is due to natural variability, human activity, or both (IPCC 2013, p. 1,450).

The demographic, ecological, and evolutionary responses of caribou to threats from climate change are complicated to predict. The complexity stems from the species’ habitat requirements and resilience to the effects of climate change. Current models for the Arctic predict deeper snow cover, increasing rainfall, increasing rain-on-snow events, warm periods, more thawing–freezing cycles, and a higher risk of ice layer formation on the soil within the snowpack during the winters of the coming decades (Hansen et al. 2011, p. 1,917; Turunen et al. 2009, pp. 813–814; Putkonen and Roe 2003, entire). Caribou populations will respond negatively to climate change due to the occurrence of more precipitation, greater snowfall, and subsequently more freezing rain events, which will make access to food more difficult (COSEWIC 2015, pp. 44–46; Miller et al. 2007, p. 33). However, other models support a conclusion that caribou may experience increases in population numbers if climate change results in a 50 percent increase of taller, denser vegetation and woody shrubs (Leclerc 2017, *in litt.*; Tews et al. 2007a, p. 95). As ecological systems are dynamic, it is complicated to predict how one change (such as a rise in temperature) will affect other elements within the ecosystem (such as the amount of precipitation that falls as freezing rain, rather than snow) (Parrott 2010, p. 1,070; Green and Sadedin 2005, pp. 117–118; Burkett et al. 2005, p. 357).

For the purpose of this assessment, given that the primary threat to the Dolphin and Union caribou is considered by caribou researchers to be loss of sea ice due to climate change and increase in shipping activities, we rely on climate projection models undertaken by IPCC (IPCC 2014a, pp. 8–12). Relevant to our discussion, these models discuss future trends for precipitation and air and water temperature, which has an impact on

the condition of the caribou habitat. Projections of sea-ice loss using RCP 4.5 and 8.5 scenarios and rain-on-snow events in the Canadian Arctic varies in their time scale (Mallory and Boyce 2018, p. 2,192; Jenkins et al. 2016, p. 4; Engler and Pelot 2013, p. 21; Stroeve et al. 2012, p. 1,012). Some models project out to the year 2080 or 2100 (Mallory and Boyce 2018, p. 2,192; Jenkins et al. 2016, p. 4). Other models project to a shorter timeframe of up to 2050s (Derksen et al. 2018, p. 218; Stroeve et al. 2012, p. 1,012). While all climate models agree that sea-ice loss will occur in the Canadian Arctic, there is disagreement on when that loss will take place. Some models project the Canadian Arctic will experience ice-free periods as early as 2050 while others project that due to the influx of sea ice from the Arctic Ocean, sea ice in the Canadian Arctic will persist into the 2080s (Li et al. 2019, pp. 1 2; Derksen et al. 2018, p. 198; Mallory and Boyce 2018, pp. 2,194 2,195; Johnson et al. 2016, p. 16; Jenkins et al. 2016, p. 4). This uncertainty is due in part to the flow of sea ice from the Arctic to the east coast of the Canadian Arctic Archipelago (Derksen et al. 2018, p. 218).

In addition to sea-ice loss, the thinning of sea ice can also have an impact on the caribou. This is because if sea ice is too thin, it will not be able to support the caribou's weight. We thus take into consideration changes in ratio over time between the thinner first-year ice versus the thicker, multiyear ice (Li et al. 2019, p. 2) in the Dolphin and Union caribou's range. In addition to changes in sea ice, because the Dolphin and Union caribou use the Dolphin and Union strait as part of its migration route, we also take into account information on historical, current, and projected shipping traffic through the Dolphin and Union strait. Because of projected increase in ice-free periods, shipping traffic is highly likely to increase (Governments of the Northwest Territories and Nunavut 2018, p. 41).

Most models project that portions of the Canadian Arctic will be ice free by 2040–2060 (Derksen et al. 2018, pp. 198, 218; Johnson et al. 2016, p. 16; Lu et al. 2014, p. 61). Although we possess projections that go out to 2100, there is greater uncertainty between the climate model projections in the latter half of the 21st century and how the effects of climate change will affect species response when projected past mid-century. Accordingly, we determined that the foreseeable future extends only to 2050 for the purpose of this analysis and we rely upon projections out to 2050 for predicting changes in the

species conditions. This timeframe allows us to be more confident of assessing the impact of climate change on the species. Overall, given our knowledge of the Dolphin and Union caribou subpopulation trend and its fluctuations, incorporating all the variables stated above, we project the foreseeable future for this entity out to the year 2050.

Based on the best scientific and commercial information available on Dolphin and Union caribou, we reach reasonable conclusions about the likely impacts that specific changes in climatic conditions may have on the species over the foreseeable future, which will be discussed below (IPCC 2014b, entire; Schiermeier 2011, p. 185; Olsen et al. 2011, entire; Liston and Hiemstra 2011, p. 5,691; Prowse et al. 2009b, entire; Turunen et al. 2009, p. 813; Barber et al. 2008, entire; Rinke and Kethloff 2008, p. 173; Kutz et al. 2004, p. 114).

#### *Loss of Sea Ice*

Sea ice is an important component of the seasonal migration of the Dolphin and Union caribou. Dolphin and Union caribou migrate across the Dolphin and Union Strait using the temporary, annual seasonal ice bridge from Victoria Island to the mainland. During the months of September and October, Dolphin and Union caribou “stage” on the south coast of Victoria Island waiting for the ice to form for the herds to cross. The caribou may cross at any time during this time period on the newly formed gray ice to their winter range on the mainland (Nishi and Gunn 2004, as cited in COSEWIC 2004, p. 35). More recently, the formation of the sea ice has been delayed, which results in caribou waiting a longer period for ice to form (Poole et al. 2010, p. 414; Gunn 2003, as cited in COSEWIC 2004, p. 35).

Climate models indicate that the Arctic will experience accelerated loss of sea-ice (Zhang et al. 2010, as cited in Meier et al. 2011, p. 9–3; Boé et al. 2009, p. 1; Wang and Overland 2009, pp. 1–3). Since the beginning of monitoring in 1979, record low levels of sea ice have occurred in recent years. From 1968 to 2015, sea ice declined at a rate of 6.1 percent per decade (Environment and Climate Change Canada 2016, p. 8). Multiyear ice, which is thick enough to support the caribou's weight, has been declining over time. In the mid-1980s, multiyear ice accounted for 75 percent of all ice in the Arctic. By 2011, it accounted for 45 percent of all ice (Li et al. 2019, p. 2). Additionally, landfast ice has also been decreasing. This is important to the Dolphin and Union caribou as the Dolphin and Union strait is a narrow passage that the

DPS uses for its migration corridors. Over the 10-year intervals starting in 1976, the maximum extent of landfast ice throughout the Arctic was:  $2.1 \times 10^6$  km<sup>2</sup> (1976–1985),  $1.9 \times 10^6$  km<sup>2</sup> (1986–1995),  $1.74 \times 10^6$  km<sup>2</sup> (1996–2005), and  $1.66 \times 10^6$  km<sup>2</sup> (2006–2018) (Li et al. 2019, p. 5).

A decrease in sea ice has continued to occur with trends accelerating since the year 2000 (COSEWIC 2015, p. 46). Sea-ice freezing now occurs 8–10 days later in the Dolphin and Union Strait and Coronation Gulf than in 1982 (Poole et al. 2010, pp. 414, 419, 425). Current and projected decrease in sea ice is likely to negatively affect the crossings by the Dolphin and Union caribou, including the potential of breaking through the ice and drowning (Governments of the Northwest Territories and Nunavut 2018, pp. 41–42; Poole et al. 2010, p. 426). Because the Dolphin and Union strait is located at the southernmost point of the Canadian Arctic Archipelago, sea-ice loss in this region is higher than in other regions farther to the north (Pizzolato 2015, p. 28). Additionally, continued increase in shipping is expected through the Northwest Passage (Governments of the Northwest Territories and Nunavut 2018, p. 42). The effects of increasing shipping will be especially pronounced for the Dolphin and Union caribou because the Dolphin and Union strait is the primary migration route for the caribou and is also a major shipping lane through the Northwest Passage (Engeler and Pelot 2013, p. 9).

As the sea-ice season is shortened and the ice thins, it is more easily broken by ice-breaking ships. A longer shipping season and an increase in ships in the Northwest Passage can fragment the Dolphin and Union caribou's summer and wintering ranges while delaying their migration. Due to the shorter sea-ice season, the number of ships travelling through the Northwest Passage has already increased from four per year in the 1980s to 20–30 per year in 2009–2013. The majority of these transits are icebreakers with trips primarily occurring in August through October, the period of time when the Dolphin and Union caribou are preparing for their southward migration to the mainland (Governments of the Northwest Territories and Nunavut 2018, p. 41). For example, in late October 2007, barge ships broke the ice every 12 hours for a few days in the Cambridge Bay to keep a channel open. This channel prevented the caribou from crossing during this time (Poole et al. 2010, p. 426). As stated above, sea-ice freezing in the fall now forms 8–10 days later than it was in 1982. Using

RCP models 4.5 and 8.5, the annual time period where the Arctic is ice-free is projected to increase over the course of the 21st century (Governments of the Northwest Territories and Nunavut 2018, p. 43; Poole et al. 2010, p. 425). Given the increases in period of ice-free months, it is reasonable to conclude that shipping traffic through the strait will increase over the course of the 21st century. Therefore, the breaking up of sea ice due to continued increases in shipping traffic, combined with projected sea-ice loss due to climate change will have a significant negative impact on the species now and into the future (Governments of the Northwest Territories and Nunavut 2018, pp. 41–44; Leclerc 2017, *in litt.*; Ray 2017, *in litt.*).

Given the Dolphin and Union caribou’s current population, it is unlikely that Victoria Island will be able to support the subpopulation if connection to wintering grounds in the mainland is lost (Ray 2017, *in litt.*; Leclerc 2017, *in litt.*).

*Summary of Climate Change*

Climate change is likely to negatively affect the Dolphin and Union caribou in a number of ways. The most significant impact of climate change on the caribou is the timing of the formation of sea ice. As part of their life cycle, Dolphin and Union caribou migrated between calving ground on Victoria Island and wintering ground on the mainland (Nishi and Gunn 2004, as cited in COSEWIC 2004, p. 35). However, sea-ice formation has been delayed with caribou having to wait for a longer period of time before they can cross between Victoria Island and the mainland (Poole et al. 2010, p. 414; Gunn 2003, as cited in COSEWIC 2004, p. 35). In addition to a delay in sea-ice formation, the sea ice that forms tends to be thinner, increasing the likelihood of ice breakup and drowning events (Poole et al. 2010, p. 426).

Overall, the Dolphin and Union caribou subpopulation appears to

continue to decline (Leclerc 2017, *in litt.*; Gunn et al. 2000, pp. 42–43). While we do not know the exact reason for the decline, the delay and loss in the formation of sea ice can impact the Dolphin and Union caribou’s ability to migrate between the mainland and Victoria Island. Therefore, given the projected impacts of sea-ice loss in the Dolphin and Union strait, we anticipate that these effects will likely have a negative impact on the Dolphin and Union caribou.

**Parasitic Harassment by Botflies**

As noted above for Peary caribou, caribou serve as host to two oestrid species: warble flies (*Hypoderma tarandi*) and nose botflies (*Cephenemyia trompe*). In the Arctic region, there are few hosts available for parasites; warble flies and nose botflies are particularly well adapted to survive in the Arctic climate using caribou as their host. Although these oestrids are widespread throughout the summer range of most caribou herds, their populations are considerably smaller in the high Arctic as that is the latitudinal extreme of their range due to temperature, hours of daylight, and wind conditions (Gunn et al. 2011, pp. 12–14; Kutz et al. 2004, p. 114). However, some researchers have expressed concern that, should warming trends continue, the parasitic rate of development and/or infectivity timeframes could become altered, which may increase energy expenditure of Dolphin and Union caribou through harassment (Kutz et al. 2004, p. 114). The biological effects of warble and nose botflies on caribou are described in the Peary caribou section above. Below we will describe the anticipated effects of fly activities for the Dolphin and Union caribou, which are found farther to the south than the Peary caribou.

*Warble Flies*

Temperature and cloud cover are vital factors for harassment of caribou by warble flies as these two factors affect

their activity level (Weladji et al. 2003, p. 80; Nilssen 1997, p. 301). Warble flies are most active during warm, sunny days; warble fly activity increases with increasing temperature (Weladji et al. 2003, p. 80). Within the Arctic, the annual mean surface temperature has increased at a rate of 0.34 °C (0.61 °F) per decade (Wang et al. 2012, p. 1). Satellite observations indicate an increase in the duration of the melt season by 10–17 days per decade, which is representative of these warmer temperatures (Comiso 2003, p. 3,498).

In Cambridge Bay, Victoria Island, the mean average daily temperature in the winter is between –36.2 and –29.8 °C (–33.2 and –21.6 °F). In summer, the mean average daily temperature is between –6.8 and 10 °C (37.4 and 44.2 °F) (Dumund and Lee 2013, p. 330). Atmosphere-ocean-ice general circulation models (AOGCMs) and other models indicate that average annual temperatures may increase by 3–6 °C by 2080 (Meier et al. 2011, pp. 9–17–9–18; Olsen et al. 2011, p. 112; Dunkley-Jones et al. 2010, p. 2,411). Based on these anticipated temperatures, we calculated the expected temperatures if the temperature was to increase by 3 degrees Celsius (scenario 1) and by 6 degrees Celsius (scenario 2). The climate models used in this table used a previous set of scenarios known as the Special Report on Emissions Scenarios (SRES) to project the low-emissions scenario (SRES B1) and high-emissions scenario (SRES A2) (Marengo et al. 2011, p. 27). More recently, a newer set of scenarios (*i.e.*, RCPs) were prepared that include a wider range of future conditions and emissions. However, to compare the SRES and RCP scenarios, SRES B1 is roughly comparable to RCP 4.5 and SRES A2 is similar to RCP 8.5 (Melillo et al. 2014, p. 821). These similarities between specific RCP and SRES scenarios make it possible to compare the results from different modeling efforts over time (Melillo et al. 2014, p. 821). See table 3, below.

TABLE 3—CAMBRIDGE BAY, VICTORIA ISLAND, NUNAVUT, CANADA: TEMPERATURE INCREASE SCENARIO UP TO 2080

[Adapted from Environment Canada 2013, as cited in Dumond and Lee 2013, p. 330]

Month	Mean average daily temp.	Current conditions		Scenario 1 (temperature increase by 3 °C)		Scenario 2 (temperature increase by 6 °C)	
		Low	High	Low	High	Low	High
December	Low	–36.2 °C	–33.2 °F	–33.2 °C	–26 °F	–30.2 °C	–20 °F
	High	–29.8 °C	–21.6 °F	–26.8 °C	–16.2 °F	–23.8 °C	–10.8 °F
July	Low	6.8 °C	44.2 °F	9.8 °C	49.6 °F	12.8 °C	55 °F
	High	10 °C	50.0 °F	13 °C	55.4 °F	16 °C	60.8 °F

Many studies indicate that the low temperature threshold for warble fly activity is around 10 °C (50 °F) (Vistness

et al. 2008, p. 1,312; Weladji et al. 2003, p. 81; Nilssen 1997, pp. 296, 300; Breyev 1956, 1961, as cited in Nilssen

and Anderson 1995, p. 1,236). Before pupation, warble fly larvae can move at least 30 centimeters (12 inches) per day

at 4 °C (39.2 °F). At 4 °C (39.2 °F), pupation did not occur, but larvae were observed to be alive (crawling) up to 47 days after exit from the host (Nilssen 1997, p. 298). The transition of warmer temperatures to areas of cooler air creates a barrier, north of which pupation may not occur. Because parasitic fly harassment is low below 13 °C (55.4 °F), and no oestrid harassment occurs below 10 °C (50 °F), this temperature threshold is significant for caribou, particularly the Dolphin and Union caribou with respect to oestrid harassment. Since the area where Dolphin and Union caribou exist is located farther to the south than the area for Peary caribou, the average summer temperature is higher. Under both scenarios, summer temperatures are projected to increase to a high of 13–16 °C, which would result in an increase in warble fly harassment.

Infestations by both warble flies and botflies cause metabolic costs, such as behavioral responses (Witter et al. 2012, p. 292; Nilssen and Anderson 1995, p. 1,237). Caribou increase and modify their movement when harassed by warble flies (Witter et al. 2012, p. 284). When warble flies are present, caribou spend a greater proportion of time avoiding insects, rather than resting or feeding (Witter et al. 2012, p. 292; Fauchald et al. 2007, p. 496). Avoidance behaviors include jumping, running, leg stomping, and, with respect to nose botflies, sudden nose drooping (Fauchald et al. 2007, p. 496; Colman et al. 2003, p. 15). Cows were observed temporarily disassociating themselves from their calves in an attempt to avoid flies (Thomas and Kiliaan 1990, p. 415). Additionally, reduced fitness may result in a reduction of available milk for calves in lactating females (Weladji et al. 2003, p. 84). The projected increase in temperature during the summertime will result in an increase in botfly activities, which will result in a reduction in fitness for the Dolphin and Union caribou.

#### *Nose Botflies*

Caribou experts consider the potential negative effects of nose botfly on caribou to be less than warble flies. While the types of effects are similar between the two species of flies, such as causing avoidance behavior in caribou, the magnitude of those effects are not as extreme for the nose botfly as that caused by the warble fly. This species enters the caribou through the caribou's nose and lives in the caribou's throat for part of its life cycle. The caribou exhibit distress from this species—they have been observed to duck their heads under water to avoid nose botflies (Witter et al.

2012, p. 284; Fauchald et al. 2007, p. 496). An increase in the temperature by more than 3 or 6 degrees Celsius in July could increase harassment of nose botflies on the Dolphin and Union caribou, although the severity will not be as high as that caused by warble flies.

#### **Summary of Parasitic Harassment**

Currently, oestrids that use caribou as their hosts are at the latitudinal extreme of their range due to temperature, hours of daylight, and wind conditions (Vistness et al. 2008, p. 1,307). We note that a threat to the Dolphin and Union caribou and the caribou's response to that threat are not, in general, equally predictable or foreseeable. Oestrid flies could expand their range, and they could possibly negatively affect the Dolphin and Union caribou if the temperature increases by 3 to 6 degrees by 2080. The lower temperature threshold for warble fly activity has been determined to be around 10 °C (50 °F) (Vistness et al. 2008, p. 1,312; Weladji et al. 2003, p. 81; Nilssen 1997, pp. 296, 300; Breyev 1956, 1961, as cited in Nilssen and Anderson 1995, p. 1,236). However, a warmer climate is likely to increase the distribution and abundance of warble flies and will lead to greater impact on the Dolphin and Union caribou.

#### **Status of Existing Regulatory Mechanisms**

Under the Act, we are required to evaluate whether the existing regulatory mechanisms are adequate. With respect to existing regulatory mechanisms, the Dolphin and Union caribou was listed as special concern under SARA in 2011 and the Government of the Northwest Territories (GNWT) Species at Risk (NWT) Act (SARC 2013, p. v). "Special concern" means that the NWT manage it on the basis that it may become threatened if it is not managed effectively. Species listed as of special concern are not protected under prohibitions that apply to threatened and endangered species. For these species, conservation benefits are provided through a management plan that is prepared after the species is listed (S.C. Ch. 65).

The management plan for the Dolphin and Union caribou was published in 2018 (Governments of the Northwest Territories and Nunavut 2018, entire; SARC 2013, p. 97). The management plan contains a list of recommended actions. These actions include: Hold regular meetings between management agencies and local communities to make recommendation on the management of the Dolphin and Union caribou DPS, monitor changes in the Dolphin and

Union caribou DPS's population and habitat, and obtain better harvest data (Governments of the Northwest Territories and Nunavut 2018, pp. 56–61). However, these recommendations are voluntary and do not commit the parties involved to any actions (Governments of the Northwest Territories and Nunavut 2018, p. 3). While the management plan does not commit any parties to any actions, the management and hunting of the Dolphin and Union caribou is mutually agreed upon by the native people (Inuit and Inuvialuit) and the territorial governments (NWT and Nunavut). Species experts note that the jurisdictional structure of caribou management in Canada is complex (Festa-Bianchet et al. 2011, p. 422). Wildlife management in the territories is under a co-management structure and falls under the Land Claims Agreement of the different indigenous groups. Caribou conservation involves legislation at the Federal and Territorial levels, in addition to wildlife management boards (COSEWIC 2004, p. 61).

#### *Hunting*

Caribou are an integral element of human society in the high Arctic (Taylor 2005, as cited, in Maher et al. 2012, p. 78; Miller and Barry 2009, p. 176). Under SARA, exceptions to prohibitions enable indigenous peoples to exercise their harvesting rights (COSEWIC 2015, p. 52). The Dolphin and Union caribou is currently hunted by the Inuit and Inuvialuit for subsistence, and this subsistence hunting is managed by local governments and the communities. However, there are concerns about the sustainability of hunting due to the lack of accurate harvesting data, which are submitted voluntarily by indigenous communities (Governments of the Northwest Territories and Nunavut 2018, pp. 20, 67; Governments of Nunavut and the NWT 2011, p. 18). Non-subsistence hunting including sport-hunting by non-indigenous residents and non-residents is managed through an annual quota system (Governments of the Northwest Territories and Nunavut 2018, pp. 68–69). Caribou are protected by land claim agreements, and hunts are co-managed by boards such as the Nunavut Wildlife Management Board, the Government of Nunavut, Department of Environment (GN-DOE), and hunting associations (COSEWIC 2004, p. 61). The Wildlife Management Advisory Council for the Inuvialuit Settlement Region in the Northwest Territories, Nunavut Wildlife Management Board for the Nunavut

Territory, the GN–DOE, and the Inuit and Inuvialuit native people all play a role in the regulation of hunting of the Dolphin and Union caribou population.

Although there are no harvest limitations of the Dolphin and Union caribou for indigenous communities, Inuit hunters who hunt caribou for subsistence have voluntarily placed moratoriums on hunts in the past (Governments of the Northwest Territories and Nunavut 2018, pp. 20–21). Based on extrapolations of harvest between 1996 and 2001 of the communities of Kugluktuk, Cambridge Bay, Umingmaktok, and Bathurst Inlet, subsistence harvest of the “island” caribou (which may include individuals not from the D&U herd) in Nunavut was estimated to be from 2,000 to 3,000 annually for those years (Schneidmiller 2011, p. 1). From 1988 to 1997, annual harvest of Dolphin and Union caribou by the community of Ulukhaktok varied between 178 and 509 per year (Governments of the Northwest Territories and Nunavut 2018, p. 20). Since then, local communities have tried to reduce the annual harvests of the caribou. Data for 2010–2014 reveal a decline of annual harvest to 10–80 caribou per year (Governments of the Northwest Territories and Nunavut 2018, p. 20). While the reporting of this data is voluntary, the reduction in annual harvest since the 1990s suggest that local communities have been able to regulate hunting activities conducted by its members as the Dolphin and Union caribou population has also declined.

In contrast to indigenous communities, Canadian citizens and resident immigrants are limited to a specific number of caribou they can hunt per year. In the NWT, Canadian citizens and residents are allowed to take up to two bulls per year during the hunting season (August 15–November 15). Non-resident and non-Canadian citizens are allowed the same number but need to be accompanied by a guide. In Nunavut, residents can hunt up to five caribou per year (Governments of the Northwest Territories and Nunavut 2018, pp. 68–69). Despite the availability of hunting tags, in the past several years, there has been no tag-based sport-hunting of Dolphin and Union caribou in Nunavut (Governments of the Northwest Territories and Nunavut 2018, p. 69; Leclerc 2017, *in litt.*; Governments of Nunavut and the NWT 2011, p. 18).

In the NWT, the governments reported that 25 tags are available annually for outfitted sport-hunting on Dolphin and Union Caribou, but no such hunts have occurred in more than

20 years (Governments of NWT and Nunavut 2011, p. 10).

At a more local scale, committees and trapper associations are involved in monitoring caribou. In 2007, non-binding management recommendations were made to maintain a balanced harvest for subsistence (harvest different age classes and sexes of animals depending on the season and avoid shooting pregnant cows during the spring) (Dumund 2007, p. 44). However, reporting of subsistence harvest is voluntary and there is uncertainty about the effect of hunting on the overall population (Governments of the Northwest Territories and Nunavut 2018, p. 67; Ray 2017, *in litt.*).

With respect to imports into the United States, as noted above there has been no tag-based non-subsistence hunting (sport-hunting) in Nunavut or NWT in recent years, and there is no trade data indicating that Dolphin and Union caribou are hunted and subsequently imported into the United States. This caribou entity is not listed in the Appendices of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) (<http://www.cites.org>; also see Conservation Status). CITES is an international agreement between governments with the purpose of ensuring that international commercial and noncommercial trade in wild animals and plants does not threaten their survival. CITES entered into force in 1975 and is an international treaty among 183 parties, including Canada and the United States. A review of the Service’s Law Enforcement Management Information System (LEMIS) database indicated that caribou are not currently tracked by subspecies (LEMIS contains information on caribou at the species level), so we do not currently have data on the import of the Dolphin and Union caribou.

Hunting has not been implicated as a current threat to Dolphin and Union caribou. While unsustainable hunting may have contributed to a historical decline in the Dolphin and Union caribou, currently subsistence hunting is managed, and sport-hunting is not taking place. (Dumond and Lee 2013, p. 329; SARC 2013, p. ix; Dumund 2012, unpaginated). The Dolphin and Union caribou is being monitored closely by the Government of Nunavut, the Government of the Northwest Territories, and the Government of Canada. In summary, hunting may have played a role in the decline of the Dolphin and Union caribou in the past; however, management of the Dolphin and Union caribou has reduced the impact of hunting.

### Protected Areas

As of 2011, no Canadian herd had a fully protected calving ground, although some are partly protected (Gunn et al. 2011, p. 26). The southwestern portion of the Dolphin and Union caribou range lies within the boundaries of Tuktu Nogait National Park (Ray 2017, *in litt.*). There is no protection of the calving ground for this caribou herd with calving-ground delimitation projects having failed in the past. Studies are currently under way to define a calving strategy and determine suitable habitat (Leclerc 2017, *in litt.*). Caribou biologists indicate that areas that are suitable for calving but are currently unused should be anticipated and managed for potential future use (Nagy 2011, p. 35). The best available information suggests that current protected areas are well managed.

### Roads

There is inconclusive information about the effects of roads on caribou (Fahrig and Rytwinski 2009, unpaginated; Frair et al. 2008, p. 1,504; Neufeld 2006, as cited in Nagy 2011, p. 101). The presence of permanent or temporary roads could affect the caribou migration route. Additionally, roads could increase access for hunters, a trend observed in other caribou subspecies. Currently, there are major expansion projects (the Grays Bay Road and Port Project and the Black River Project) in the road network to service mining development near the Bathurst Inlet, which is located near the wintering range of the Dolphin and Union caribou (Governments of the Northwest Territories and Nunavut 2018, pp. 51–52). However, the Dolphin and Union caribou exists in areas that are sparsely populated with human communities and have very few roads, which should limit the effects of development on the entity. While the road network in the species’ range remains limited, development could increase in the next 10 years (Governments of the Northwest Territories and Nunavut 2018, p. 51; Leclerc 2017, *in litt.*).

### Shipping, Exploration, and Developmental Activities

The Northwest Passage, which includes the Dolphin and Union Strait, is likely to become more navigable to large ships in the near future and could be exposed to exploration activities. Ships traveling through the Northwest Passage could be routed through the Dolphin and Union Strait as temperatures become substantially warmer. In recent years, the strait has



been ice-free for 2 months during the summer, leading to increased maritime traffic with heavy ship traffic concentrating around the strait used by the Dolphin and Union caribou (Leclerc 2017, *in litt.*; Pizzolato et al. 2016, pp. 12,148–12,149). Given that ice levels in the 2010–2012 periods have been the lowest since 1968, it is very likely that shipping traffic through the strait will increase (Howell et al. 2013, as cited in Pizzolato et al. 2016, p. 12,152). Currently, traffic to the Beaufort Sea is the second highest in the Northwest Passage after the Hudson Bay (Pizzolato et al. 2016, p. 12,149; SAC 2013, p. 94). Shipping traffic through the strait increases in years where multiyear-ice levels, which present significant impediment to ship traffic, are low (Pizzolato et al. 2016, p. 12,152). In the Victoria Strait region (located at the opposite end of the channel to the Dolphin and Union strait), shipping activity tripled during the 2006–2013 period (Pizzolato et al. 2016, p. 12,152). Shipping traffic negatively affects the migration of the Dolphin and Union caribou by causing ice breakup during the winter (SARC 2013, p. 47).

If the warming trend continues in this region as climate models indicate, conditions for offshore oil and gas exploration and production will likely improve, increasing the likelihood of shipping traffic (Pizzolato et al. 2016, p. 12,152; Barber et al. 2008, p. 17). The potential increase in mining and shipping traffic in the Dolphin and Union Strait could have demographic and ecological consequences for the Dolphin and Union caribou. A larger number of Dolphin and Union caribou on the mainland has been sighted with a thicker coat of fur suggesting that more of them are falling through the ice (Poole et al. 2010, p. 416). While increasing shipping traffic will lead to the breakup of the ice, some Inuit have indicated ships run through the straits during the summer months, which is outside of the primary migration months (SARC 2013, p. 47). However, the reduction in multiyear ice in the strait over time will result in greater shipping traffic even during the winter (Pizzolato et al. 2016, p. 12,152; SAC 2013, p. 94).

#### **Stochastic (Random) Events and Processes**

Species endemic to small regions, or known from few, widely dispersed locations, are inherently more vulnerable to extinction than widespread species because of the higher risks from localized stochastic (random) events and processes, such as industrial spills and drought. Such

species face an increased likelihood of stochastic extinction due to changes in demography, the environment, genetics, or other factors, in a process described as an extinction vortex (a mutual reinforcement that occurs among biotic and abiotic processes that drives population size downward to extinction) (Gilpin and Soulé 1986, pp. 24–25). The negative impacts associated with vulnerability to random demographic fluctuations or natural catastrophes can be further magnified by synergistic interactions with other threats.

The Dolphin and Union caribou is known from a single geographic population that migrates between Victoria Island and the Canadian mainland (SARC 2013, p. xiv; Governments of NWT and Nunavut 2011, p. 2; Poole et al. 2009, p. 415). As a result, the Dolphin and Union caribou is vulnerable to stochastic processes and is highly likely negatively affected by these processes. Year-to-year variation in the timing of sea-ice formation, shipping traffic, and usage of icebreakers, in combination with other threats, could impact the migration of the Dolphin and Union caribou (Poole et al. 2010, pp. 414, 419, 425; Sharma et al. 2009, p. 2,559). Therefore, it is likely that stochastic processes have negative impacts on the species in combination with other factors such as sea-ice loss and shipping.

#### **Synergistic Interactions Between Threat Factors**

We have evaluated the individual threats to the Dolphin and Union caribou throughout its range. The primary threat affecting the Dolphin and Union caribou is the loss of sea ice due to climate change and increased shipping through the straits. Other factors, though not as severe as loss of sea ice and shipping, can become threats due to the cumulative effects they will have on the Dolphin and Union caribou. For the Dolphin and Union caribou DPS, warble fly and nose botfly harassment, disease, and predation are threats that, synergistically, could have an impact on the Dolphin and Union caribou.

As discussed in the previous sections, the Dolphin and Union caribou population continues to decline from its recent peak in 1997 (Dumond and Lee 2013, p. 334). While the exact cause of the decline is not known, a number of factors acting synergistically can put additional pressure on the population. Botfly harassment has the potential to increase if surface temperature increases by more than 3–6 °C (Dumond and Lee 2013, p. 330). One recent climate-

projection model points toward an increase in botfly activity, which will increase the energy expenditure of caribou (Witter et al. 2012, p. 284). Although these factors individually do not amount to a threat to the Dolphin and Union caribou, acting synergistically with major threats of sea-ice loss and shipping, they can have a detrimental impact.

#### **Determination of Dolphin and Union Caribou Status**

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations (50 CFR part 424) set forth the procedures for determining whether a species meets the definition of “endangered species” or “threatened species.” The Act defines an “endangered species” as a species that is “in danger of extinction throughout all or a significant portion of its range,” and a “threatened species” as a species that is “likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.” The Act requires that we determine whether a species meets the definition of “endangered species” or “threatened species” because of any of the following factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. For a more detailed discussion on the factors considered when determining whether a species meets the definition of “endangered species” or “threatened species” and our analysis on how we determine the foreseeable future in making these decisions, please see the *Regulatory Framework* section above.

#### **Status Throughout All of Its Range**

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the Dolphin and Union caribou. Experts remain uncertain of how changes in climate will affect this DPS and its ecosystem (Brodie et al. 2012, p. 29; Poole et al. 2010, entire; Turunen et al. 2009, pp. 816, 826), and we have made reasonable conclusions about the potential impacts these changes may have on the species based on the best scientific and commercial information available on Dolphin and Union caribou. As is the case with all threats that we assess, even if we conclude that a species is currently affected or is likely to be



affected in a negative way by one or more climate-related impacts, it does not necessarily follow that the species meets the definition of an “endangered species” or a “threatened species” under the Act. That said, the best available information indicates that the Dolphin and Union caribou is in decline (Leclerc 2017, *in litt*). Although the exact cause is not known, a number of threats acting synergistically could have a role in reducing the population. We have concluded that these threats are primarily loss of sea ice due to climate change and an increase in shipping traffic (Factor A). Other threats, including parasitism (Factor C), disease (Factor C), predation (Factor C), and hunting (Factor B), have a limited or unknown impact.

Although the herd has changed its migration patterns and its resource use in the past, access to the wintering ground on the mainland played an important role in the historical recovery of the species (Leclerc 2017, *in litt*.; Nishi and Gunn 2004, as cited in COSEWIC 2004, p. 35). Current trends indicate sea-ice loss in the Dolphin and Union caribou’s range will continue through the end of the 21st century (Meier et al. 2011, pp. 9–2–9–3; Wang and Overland 2009, p. L07502; Boé et al. 2009, p. 1). Additionally, an increase in shipping traffic through the Dolphin and Union caribou’s habitat will delay the formation of sea ice. The result of both these threats is that sea ice between Victoria Island and the mainland now forms 8–10 days later than it did in 1982, a trend that will continue to accelerate (Poole *et al* 2010, p. 414). Additionally, because the Dolphin and Union strait occurs at the southernmost point of the Northwest Passage, shipping traffic is more concentrated in this region than in other portions of the Canadian Archipelago (Pizzolato et al. 2016, pp. 12,148–12,149). The continued increase in shipping traffic combined with projected ice loss in this region will have a significant effect on the Dolphin and Union caribou by delaying or preventing the migration to wintering grounds on the mainland (Poole *et al* 2010, p. 414). Although the Dolphin and Union caribou was able to adapt in the past after the caribou ceased migration to the mainland, the trend since 1997 suggests a steady decline. Furthermore, given the population size, it is unlikely that Victoria Island will be able to support the Dolphin and Union caribou (Leclerc 2017, *in litt*).

In addition to the potential loss of connectivity between Victoria Island and the mainland, the Dolphin and Union caribou also experience impacts

from other threats. The impacts of these other threats, however, are more uncertain. Insect harassment from warble flies increases the energy expenditure of affected animals (Scheer 2004, pp. 10–11). With regard to disease, although local communities have identified affected individuals, the impact on the overall subpopulation is unknown (SARC 201, p. 80). Predation could have an impact on the Dolphin and Union caribou. Earlier reports suggest that predation does not represent a major threat, but there are lingering concerns (Ray 2017, *in litt*.; Gunn 2005, pp. 10–11, 39–41). Lastly, while unregulated hunting played an important role in the historical decline of the Dolphin and Union caribou, there are current management efforts in place to regulate hunting and sport-hunting is not currently taking place. However, the DPS continues to decline (Dumond and Lee 2013, p. 329; SARC 2013, p. ix; Dumond 2012, unpaginated).

In summary, the Dolphin and Union caribou has experienced significant population change over the past century. The Dolphin and Union caribou experienced a significant decline in the early 20th century due to the introduction of firearms and excessive hunting (COSEWIC 2004, p. 41; Gunn et al. 2011, p. 37; Manning 1960, pp. 9–10). Populations rebounded in the latter half of the 20th century reaching its maximum size in 1997. Since then, however, the single population of the Dolphin and Union caribou has declined once more. Surveys conducted in 2007 revealed a modest decline of the species (Dumond and Lee 2013, p. 334). However, a survey in 2015 revealed that the decline continues (Governments of the Northwest Territories and Nunavut 2018, p. 36; Leclerc 2017, *in litt*). We find that a number of threats, including primarily sea-ice loss due to climate change and shipping, and to a lesser extent insect harassment, predation, and hunting, acting in tandem and synergistically, are anticipated to continue to have a negative impact on the species, leading to continued decline over the foreseeable future.

In section 3(6), the Act defines an “endangered species” as any species that is “in danger of extinction throughout all or a significant portion of its range” and in section 3(20), defines a “threatened species” as any species that is “likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.” As noted above, the Dolphin and Union caribou historically experienced population decline in the early 20th century. The DPS rebounded

in the latter half of the previous century reaching a new maximum population in 1997 at 28,000 individuals (Governments of the Northwest Territories and Nunavut 2018, p. 36). Since then, due to a combination of factors including primarily the effects of climate change and shipping traffic on sea-ice loss, the population has declined by approximately one-third with the most recent population estimate of 18,413 in 2015 (Governments of the Northwest Territories and Nunavut 2018, p. 36). Sea-ice thickness has been getting thinner and the quantity of multi-year ice is decreasing (COSEWIC 2017, p. 30). Additionally, warming fall temperature on the south coast of Victoria Island has delayed the formation of new sea ice by up to 10 days and thicker grey ice by 8 days when compared to the fall season in 1982 (COSEWIC 2017, p. 30). Over the foreseeable future to mid-century, this trend will likely contribute to a decrease in sea-ice thickness, thereby increasing the possibility of mass drowning events by the Dolphin and Union caribou. Some climate-change models project that the strait between Victoria Island and the mainland may partially ice-free even during the wintertime by 2050 (Jenkins et al. 2015, p. 4). However, at present, the Dolphin and Union caribou has been observed crossing the strait to the mainland (Governments of the Northwest Territories and Nunavut 2018, p. 30). This suggests that current sea-ice thickness is still sufficient for crossings to occur. Continued migration to the mainland will give the Dolphin and Union caribou access to resources to survive the winter months in the short term such that the DPS is not currently in danger of extinction.

While the Dolphin and Union caribou is not currently in danger of extinction due to wintertime connectivity with the mainland, climate models project fragmentation of migration corridors between Victoria Island and the mainland by the mid-21st century. Even without the effects of shipping traffic, many climate models project that sea ice in the southern portion of the Canadian Arctic Archipelago where Dolphin and Union caribou is found will likely become partially fragmented even during the wintertime by mid-century (Derksen et al. 2018, p. 218; Jenkins et al. 2015, p. 4). When adding the increasing frequency of shipping traffic through the strait currently and the likely further increase in the foreseeable future, the result is a likely greater fragmentation of migration corridor during the wintertime. The result of this change is thinner ice leading to likely

increases in mass drowning events. Because the effects of sea-ice loss due to climate change and shipping traffic are both projected to increase over the foreseeable future, these two threats will continue to have a negative and increasing effects on the Dolphin and Union caribou. Furthermore, because the Dolphin and Union caribou is already experiencing a persistent decline within the past twenty years, the increases of frequency of mass drowning events due to sea-ice loss as a result of climate change and shipping traffic will result in an accelerated population decline such that the DPS is likely to become in danger of extinction within the next few decades.

Therefore, after evaluating threats to the species and assessing the cumulative effect of the threats under the section 4(a)(1) factors, we conclude that the Dolphin and Union caribou is not currently in danger of extinction, but as a result of the ongoing and projected decline caused by the factors described above, the Dolphin and Union caribou is likely to become in danger of extinction within the foreseeable future throughout all of its range.

Thus, after assessing the best available information, we conclude that Dolphin and Union caribou is not currently in danger of extinction but is likely to become in danger of extinction within the foreseeable future throughout all of its range. If new information is found that results in a changed level of threats, we will consider that information in the final rule.

#### **Status Throughout a Significant Portion of Its Range**

Under the Act and our implementing regulations, a species may warrant listing if it is in danger of extinction or likely to become so in the foreseeable future throughout all or a significant portion of its range. The court in *Center for Biological Diversity v. Everson*, 2020 WL 437289 (D.D.C. Jan. 28, 2020) (*Center for Biological Diversity*), vacated the aspect of the 2014 Significant Portion of its Range Policy that provided that the Services do not undertake an analysis of significant portions of a species' range if the species warrants listing as threatened throughout all of its range. Therefore, we evaluated whether the species is endangered in a significant portion of its range—that is, whether there is any portion of the species' range for which both (1) the portion is significant; and, (2) the species is in danger of extinction in that portion. Depending on the case, it might be more efficient for us to address the “significance” question or the “status” question first. We can choose to address

either question first. Regardless of which question we address first, if we reach a negative answer with respect to the first question that we address, we do not need to evaluate the other question for that portion of the species' range.

Following the court's holding in *Center for Biological Diversity*, we now consider whether there are any significant portions of the species' range where the species is in danger of extinction now (*i.e.*, endangered). In undertaking this analysis for Dolphin and Union caribou, we choose to address the status question first—we consider information pertaining to the geographic distribution of both the species and the threats that the species faces to identify any portions of the range where the species is endangered.

For the Dolphin and Union caribou, we considered whether the threats are geographically concentrated in any portion of the species' range at a biologically meaningful scale. We examined the following threats: Increase in icing events, sea-ice loss, and increase in shipping traffic, including cumulative effects. Icing events are often fairly localized to specific areas. Historical trends show that increases in icing events per year is associated with a decline in caribou numbers (Governments of the Northwest Territories and Nunavut 2018, p. 50). Sea-ice loss affects the Dolphin and Union caribou ability to cross the sea ice between Victoria Island and the mainland (Governments of the Northwest Territories and Nunavut 2018, p. 30). Additionally, the migration route the Dolphin and Union caribou passes through is one of the primary shipping lanes in the Northwest Passage (Pizzolato et al. 2016, pp. 12,148–12,149). This increase in shipping traffic combined with climate change will result in the late formation or premature breakup of sea ice, which could lead to mass drowning events as well as delay in the subpopulation ability to migrate across the strait.

While the threats affecting the Dolphin and Union caribou may be topographically differentiated (icing events on land and sea-ice loss and shipping traffic on water), the Dolphin and Union caribou consist of one herd. Although that herd temporarily splits into smaller subunits during calving periods (Governments of the Northwest Territories and Nunavut 2018, p. 30), this split is temporary, and individuals congregate in the fall at southern portion of Victoria Island. There, the herd forages until sea ice reaches a sufficient thickness for the herd to cross over (Governments of the Northwest Territories and Nunavut 2018, p. 32).

Thus, there is no biologically meaningful subdivision of the Dolphin and Union caribou DPS's range into portions. While threats can affect certain areas of the Dolphin and Union caribou range, any such threats will affect the entire herd. Overall, we found no concentration of threats in any portion of the Dolphin and Union caribou range at a biologically meaningful scale. Thus, there are no portions of the species' range where the species has a different status from its range-wide status. Therefore, no portion of the species' range provides a basis for determining that the species is in danger of extinction in a significant portion of its range, and we determine that the species is likely to become in danger of extinction within the foreseeable future throughout all of its range. This is consistent with the courts' holdings in *Desert Survivors v. Department of the Interior*, No. 16–cv–01165–JCS, 2018 WL 4053447 (N.D. Cal. Aug. 24, 2018), and *Center for Biological Diversity v. Jewell*, 248 F. Supp. 3d, 946, 959 (D. Ariz. 2017).

#### **Determination of Status**

Our review of the best available scientific and commercial information indicates that the Dolphin and Union caribou DPS meets the definition of a threatened species. Therefore, we propose to list the Dolphin and Union caribou DPS as a threatened species in accordance with sections 3(20) and 4(a)(1) of the Act.

#### **Available Conservation Measures**

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness and encourages and results in conservation actions by Federal and State governments, foreign governments, private agencies and interest groups, and individuals.

As explained below, the proposed 4(d) rule for Dolphin and Union caribou would, in part, make it illegal for any person subject to the jurisdiction of the United States to import, export; deliver, receive, carry, transport, or ship in interstate or foreign commerce in the course of commercial activity; or sell or offer for sale in interstate or foreign commerce any Dolphin and Union caribou. Certain exceptions apply to agents of the Service and State conservation agencies. An exception is also provided in the proposed 4(d) rule for import of personal sport-hunted trophies legally hunted in and exported

from Canada with accompanying sport-hunting tags.

Our regulations at 50 CFR part 402 implement the interagency cooperation provisions found under section 7 of the Act. Under section 7(a)(1) of the Act, Federal agencies are to use, in consultation with and with the assistance of the Service, their authorities in furtherance of the purposes of the Act. Section 7(a)(2) of the Act, as amended, requires Federal agencies to ensure, in consultation with the Service, that “any action authorized, funded, or carried out” by such agency is not likely to jeopardize the continued existence of a listed species or result in destruction or adverse modification of its critical habitat. An “action” that is subject to the consultation provisions of section 7(a)(2) has been defined in our implementing regulations at 50 CFR 402.02 as “all activities or programs of any kind authorized, funded, or carried out, in whole or in part, by Federal agencies in the United States or upon the high seas.” With respect to this species, there are no “actions” known to require consultation under section 7(a)(2) of the Act. Given the regulatory definition of “action,” which clarifies that it applies to “activities or programs . . . in the United States or upon the high seas,” the species is unlikely to be the subject of section 7 consultations, because the terrestrial species conducts its entire life cycle outside of the United States and is unlikely to be affected by U.S. Federal actions. Additionally, no critical habitat will be designated for this species because, under 50 CFR 424.12(g), we will not designate critical habitat within foreign countries or in other areas outside of the jurisdiction of the United States.

Section 8(a) of the ESA authorizes the provision of limited financial assistance for the development and management of programs that the Secretary of the Interior determines to be necessary or useful for the conservation of endangered or threatened species in foreign countries. Sections 8(b) and 8(c) of the ESA authorize the Secretary to encourage conservation programs for foreign listed species, and to provide assistance for such programs, in the form of personnel and the training of personnel.

Section 9 of the Act and our implementing regulations at 50 CFR 17.21 set forth a series of general prohibitions that apply to all endangered wildlife, and which may be applied to threatened species through a regulation issued under section 4(d) of the Act. As noted above, the proposed 4(d) rule for Dolphin and Union caribou imposes prohibitions tailored to the

needs of the threatened species (see Proposed 4(d) Rule below). Permits may be issued to carry out otherwise prohibited activities involving threatened wildlife species under certain circumstances. Regulations governing permits for threatened species are codified at 50 CFR 17.32. With regard to threatened wildlife, a permit may be issued for scientific purposes, to enhance the propagation or survival of the species, for incidental take in connection with otherwise lawful activities, as well as for zoological exhibition, education, and special purposes consistent with the Act. The Service may also register persons subject to the jurisdiction of the United States through its captive-bred-wildlife (CBW) program if certain established requirements are met under the CBW regulations (50 CFR 17.21(g)). Through a CBW registration, the Service may allow a registrant to conduct certain otherwise prohibited activities under certain circumstances to enhance the propagation or survival of the affected species: Take; export or re-import; deliver, receive, carry, transport or ship in interstate or foreign commerce, in the course of a commercial activity; or sell or offer for sale in interstate or foreign commerce. A CBW registration may authorize interstate purchase and sale only between entities that both hold a registration for the taxon concerned. The CBW program is available for species having a natural geographic distribution not including any part of the United States and other species that the Director has determined to be eligible by regulation. The individual specimens must have been born in captivity in the United States. There are also certain statutory exemptions from the prohibitions, which are found in sections 9 and 10 of the Act.

### III. Proposed Rule for Dolphin and Union Caribou Issued Under Section 4(d) of the Act

#### Background

Section 4(d) of the Act contains two sentences. The first sentence states that the “Secretary shall issue such regulations as he deems necessary and advisable to provide for the conservation” of species listed as threatened. The U.S. Supreme Court has noted that statutory language like “necessary and advisable” demonstrates a large degree of deference to the agency (see *Webster v. Doe*, 486 U.S. 592 (1988)). “Conservation” is defined in the Act to mean “the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which

the measures provided pursuant to [the Act] are no longer necessary.” Additionally, the second sentence of section 4(d) of the Act states that the Secretary “may by regulation prohibit with respect to any threatened species any act prohibited under section 9(a)(1), in the case of fish or wildlife, or section 9(a)(2), in the case of plants.” Thus, the combination of the two sentences of section 4(d) provides the Secretary with wide latitude of discretion to select and promulgate appropriate regulations tailored to the specific conservation needs of the threatened species. The second sentence grants particularly broad discretion to the Service when adopting the prohibitions under section 9.

The courts have recognized the Secretary’s discretion under this standard to develop rules that are appropriate for the conservation of a species. For example, courts have approved rules developed under section 4(d) that include a taking prohibition for threatened wildlife or include a limited taking prohibition (see *Alesea Valley Alliance v. Lautenbacher*, 2007 U.S. Dist. Lexis 60203 (D. Or. 2007); *Washington Environmental Council v. National Marine Fisheries Service*, 2002 U.S. Dist. Lexis 5432 (W.D. Wash. 2002)). Courts have also approved 4(d) rules that do not address all of the threats a species faces (see *State of Louisiana v. Verity*, 853 F.2d 322 (5th Cir. 1988)). As noted in the legislative history when the Act was initially enacted, “once an animal is on the threatened list, the Secretary has an almost infinite number of options available to him with regard to the permitted activities for those species. He may, for example, permit taking, but not importation of such species, or he may choose to forbid both taking and importation but allow the transportation of such species.” (H.R. Rep. No. 412, 93rd Cong., 1st Sess. 1973).

Exercising its authority under section 4(d) of the Act, the Service has developed a proposed rule that is designed to address the Dolphin and Union caribou’s conservation needs. Although the statute does not require the Service to make a “necessary and advisable” finding with respect to the adoption of specific prohibitions under section 9, we find that this rule as a whole satisfies the requirement in section 4(d) of the Act to issue regulations deemed necessary and advisable to provide for the conservation of the Dolphin and Union caribou. As discussed under Summary of Biological Status and Threats, the Service has concluded that the Dolphin and Union caribou is likely to be at risk

of extinction within the foreseeable future primarily due to the cumulative effects of sea-ice loss due to climate change and shipping traffic. The provisions of this proposed 4(d) rule would promote conservation of the Dolphin and Union caribou by ensuring that activities undertaken with the Dolphin and Union caribou by any person under the jurisdiction of the United States are also supportive of the conservation efforts undertaken for the Dolphin and Union caribou in Canada, thereby encouraging management in ways that meet the conservation needs of the Dolphin and Union caribou. The provisions of this rule are one of many tools that the Service would use to promote the conservation of the Dolphin and Union caribou. This proposed 4(d) rule would apply only if and when the Service makes final the listing of the Dolphin and Union caribou as a threatened species.

#### Provisions of the Proposed 4(d) Rule

For the Dolphin and Union caribou, the Service has determined that a 4(d) rule is appropriate. In this proposed rule, we identified several factors that, in concert with climate change, may have a negative impact for the Dolphin and Union caribou. These risk factors include an increase in icing events, loss of sea ice, and parasitic harassment by botflies (Dumund and Lee 2013, p. 335; Poole et al. 2010, entire). Loss of sea ice due to climate change and shipping traffic constitute the primary threat affecting the Dolphin and Union caribou. However, because these effects are manifesting in Canada, the Service has limited regulatory means to ameliorate them. Therefore, the provisions of our 4(d) rule focus on ensuring that any activities undertaken with the Dolphin and Union caribou by any person under the jurisdiction of the United States encourage and support conservation management efforts for the Dolphin and Union caribou in Canada to help meet the conservation needs of the Dolphin and Union caribou.

Additionally, we have identified the existing regulatory mechanisms in place in Canada to conserve Dolphin and Union caribou. We assessed the conservation needs of these caribou in light of the protections provided to the species under SARA and COSEWIC. The Dolphin and Union caribou is listed as an entity of “special concern” under SARA. While subsistence and sport hunting of Dolphin and Union caribou is allowed and managed, as noted previously, the management plan for the Dolphin and Union caribou provides recommendations on how to better manage and conserve the DPS.

Accordingly, in part due to current management efforts to limit the take of the DPS in Canada, the best available commercial data indicates that the current legal harvest of this caribou DPS is not occurring at levels that are affecting the population of the DPS (Governments of the Northwest Territories and Nunavut 2018, pp. 47). While we have found that these current efforts alone will be inadequate to prevent the species from likely becoming in danger of extinction within the foreseeable future throughout all of its range, we also recognize the value these management efforts play in helping to conserve the species.

This proposed 4(d) rule would provide for the conservation of the Dolphin and Union caribou and ensure that activities undertaken by any person under the jurisdiction of the United States are also supportive of the conservation efforts undertaken for the DPS in Canada, by prohibiting the following activities with the Dolphin and Union caribou, except as otherwise authorized or permitted: Importing or exporting; delivering, receiving, transporting, or shipping in interstate or foreign commerce in the course of commercial activity; or selling or offering for sale in interstate or foreign commerce.

The proposed rule would also provide an exception for the import of personal sport-hunted trophies legally hunted in and exported from Canada with accompanying hunting tags. As explained previously, while there is no information to indicate that non-subsistence hunting (sport-hunting) is occurring, legal subsistence hunting and sport-hunting is also not considered to be a current threat because of current management efforts undertaken by national and local governments. Under the current management efforts, a U.S. sport-hunter or other non-resident and non-Canadian citizen may be issued tags to hunt up to 5 caribou per year in Nunavut and need to be accompanied by a guide, while no more than 25 total caribou tags may be issued in NWT to U.S. or other non-Canadian outfitted sport-hunters. Our proposed 4(d) rule would provide that if a Dolphin and Union caribou is legally hunted in and exported from Canada with accompanying sport-hunting tag issued by Nunavut or NWT, import of the personal sport-hunted trophy by the hunter into the United States would not require a threatened species permit.

We may also issue permits to carry out otherwise prohibited activities, including those described above, involving threatened wildlife under certain circumstances, such as for

scientific purposes, or the enhancement of propagation or survival of the Dolphin and Union caribou in the wild. In issuing such permits we consider a number of factors, including whether the permit, if issued, would conflict with any known program intended to enhance the survival probabilities of the population, the probable direct and indirect effect that issuing the permit would have on the wild populations, and whether the purpose for which the permit is required would be likely to reduce the threat of extinction facing the species. Regulations governing permits for threatened wildlife are codified at 50 CFR 17.32, and are further described in Available Conservation Measures, above. This proposed 4(d) rule, if finalized, would apply to all live and dead Dolphin and Union caribou and parts and products, support conservation management efforts for Dolphin and Union caribou in the wild in Canada, and allow for trade and interstate and foreign commerce consistent with the purposes of the Act and conservation of the species as provided for in our threatened species permitting provisions.

#### Required Determinations

##### Clarity of the Rule

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- (1) Be logically organized;
- (2) Use the active voice to address readers directly;
- (3) Use clear language rather than jargon;
- (4) Be divided into short sections and sentences; and
- (5) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in **ADDRESSES**. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the names of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

#### National Environmental Policy Act (42 U.S.C. 4321 et seq.)

We have determined that we do not need to prepare environmental analyses pursuant to the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 et seq.) in connection with listing a species under the Act. We published a notice

outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

**References Cited**

A complete list of references cited is available on <http://www.regulations.gov> under Docket Number FWS–R4–ES–2019–0014.

**Authority**

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

**Authors**

The primary authors of this proposed rule are the staff members of the Branch of Delisting and Foreign Species,

Ecological Services, U.S. Fish and Wildlife Service.

**List of Subjects in 50 CFR Part 17**

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

**Proposed Regulation Promulgation**

Accordingly, we hereby propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as follows:

**PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS**

■ 1. The authority citation for part 17 continues to read as follows:

**Authority:** 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245; unless otherwise noted.

■ 2. Amend § 17.11(h) by adding an entry for “Caribou, barren-ground [Dolphin and Union caribou DPS]” in alphabetical order under Mammals to the List of Endangered and Threatened Wildlife, to read as follows:

**§ 17.11 Endangered and threatened wildlife.**

\* \* \* \* \*  
(h) \* \* \*

Common name	Scientific name	Where listed	Status	Listing citations and applicable rules
MAMMALS				
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Caribou, barren-ground [Dolphin and Union caribou DPS].	<i>Rangifer tarandus groenlandicus</i> .	Canada (Victoria Island, Canadian Mainland in Nunavut and Northwest Territories).	T	[ <b>Federal Register</b> citation when published as a final rule]; 50 CFR 17.40(t). <sup>4d</sup>
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *

■ 3. Amend § 17.40 by adding paragraph (t) to read as follows:

**§ 17.40 Special rules—mammals.**

\* \* \* \* \*

(t) Caribou, barren-ground [Dolphin and Union caribou distinct population segment (DPS)] (*Rangifer tarandus groenlandicus*).

(1) *Prohibitions.* Except as provided under paragraph (t)(2) of this section and §§ 17.4–17.5, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit, or to cause to be committed, any of the following acts with regard to this species:

- (i) Import or export, as set forth for endangered wildlife at § 17.21(b).
- (ii) Interstate or foreign commerce in the course of commercial activity, as set forth for endangered wildlife at § 17.21(e).
- (iii) Sale or offer for sale, as set forth for endangered wildlife at § 17.21(f).

(2) *Exceptions from prohibitions.*

- With regard to this species, you may:
  - (i) Import personal sport-hunted trophies legally hunted in and exported from Canada with accompanying hunting tags.
  - (ii) Conduct activities as authorized by permit under § 17.32.
  - (iii) Conduct activities as authorized by a captive-bred wildlife registration

for endangered wildlife under § 17.21(g).

**Martha Williams,**

*Principal Deputy Director, Exercising the Delegated Authority of the Director, U.S. Fish and Wildlife Service.*

[FR Doc. 2021–18098 Filed 8–30–21; 8:45 am]

**BILLING CODE 4333–15–P**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 20**

[Docket No. FWS–HQ–MB–2021–0057; FF09M22000–212–FXMB1231099BPP0]

**RIN 1018–BF07**

**Migratory Bird Hunting; Proposed 2022–23 Migratory Game Bird Hunting Regulations (Preliminary) With Requests for Indian Tribal Proposals; Notification of Meetings**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; availability of supplemental information.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service or we) proposes to establish annual hunting regulations for certain migratory game birds for the 2022–23 hunting season. We annually

prescribe outside limits (frameworks) within which States may select hunting seasons. This proposed rule provides the regulatory schedule, announces the Service Migratory Bird Regulations Committee (SRC) and Flyway Council meetings, describes the proposed regulatory alternatives for the 2022–23 general duck seasons and preliminary proposals that vary from the 2021–22 hunting season regulations, and requests proposals from Indian Tribes that wish to establish special migratory game bird hunting regulations on Federal Indian reservations and ceded lands. Migratory bird hunting seasons provide opportunities for recreation and sustenance; aid Federal, State, and Tribal governments in the management of migratory game birds; and permit harvests at levels compatible with migratory game bird population status and habitat conditions.

**DATES:**

*Comments:* You may comment on the general duck season regulatory alternatives and other preliminary proposals for the 2022–23 season until September 30, 2021. In subsequent **Federal Register** documents, you will be given an opportunity to submit comments on the proposed frameworks (see Schedule of Biological Information Availability, Regulations Meetings and **Federal Register** Publications for the

2022–23 Hunting Season at the end of this proposed rule for further information). Tribes must submit proposals and related comments on or before December 1, 2021.

*Meetings:* The SRC will meet on September 28–29, 2021, to consider and develop proposed regulations for the 2022–23 migratory game bird hunting seasons. Meetings on both days will commence at approximately 11 a.m. (Eastern) and are open to the public.

**ADDRESSES:**

*Comments:* You may submit comments on the proposals by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments on Docket No. FWS–HQ–MB–2021–0057.

- *U.S. mail:* Public Comments Processing, Attn: FWS–HQ–MB–2021–0057; U.S. Fish and Wildlife Service; MS: PRB/3W; 5275 Leesburg Pike; Falls Church, VA 22041–3803.

We will not accept emailed or faxed comments. We will post all comments on <http://www.regulations.gov>. This generally means that your entire submission—including any personal identifying information—will be posted on the website. See Public Comments, below, for more information.

*Meetings:* The September 28–29, 2021, SRC meeting will be conducted in person and or by video-teleconference. The meeting is open to the public. Meeting details and opportunities for the public to listen to and observe the meeting will be posted at <https://www.fws.gov/birds> when they become available.

*Accommodation requests:* The Service is committed to providing access to the SRC meeting for all participants and observers. Please direct all requests for sign language interpreting services, closed captioning, or other accommodation needs to the person listed under **FOR FURTHER INFORMATION CONTACT** by close of business on September 1, 2021. If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service at 800–877–8339.

**FOR FURTHER INFORMATION CONTACT:** Jerome Ford, U.S. Fish and Wildlife Service, Department of the Interior, (202) 208–1050.

**SUPPLEMENTARY INFORMATION:**

**Process for Establishing Annual Migratory Game Bird Hunting Regulations**

As part of the Department of the Interior’s 2015 retrospective regulatory review, we changed our process for

developing migratory game bird hunting regulations with the goal of enabling the State agencies to select and publish their season dates earlier than was allowed under the prior process. We provided a detailed overview of this process in the August 6, 2015, **Federal Register** (80 FR 47388). This proposed rule is the first in a series of proposed and final rules that establish regulations for the 2022–23 migratory bird hunting season.

**Background and Overview**

Migratory game birds are those bird species so designated in conventions between the United States and several foreign nations for the protection and management of these birds. Under the Migratory Bird Treaty Act (16 U.S.C. 703–712), the Secretary of the Interior is authorized to determine when “hunting, taking, capture, killing, possession, sale, purchase, shipment, transportation, carriage, or export of any such bird, or any part, nest, or egg” of migratory game birds can take place, and to adopt regulations for this purpose (16 U.S.C. 704(a)). These regulations are written after giving due regard to “the zones of temperature and to the distribution, abundance, economic value, breeding habits, and times and lines of migratory flight of such birds” (16 U.S.C. 704(a)), and are updated annually. This responsibility has been delegated to the Service as the lead Federal agency for managing and conserving migratory birds in the United States. However, migratory bird management is a cooperative effort of Federal, State, and Tribal governments.

The Service annually develops migratory game bird hunting regulations by establishing the frameworks, or outside limits, for season dates, season lengths, shooting hours, bag and possession limits, and areas where migratory game bird hunting may occur. These frameworks are necessary to allow harvest at levels compatible with migratory game bird population status and habitat conditions.

Acknowledging regional differences in hunting conditions, the Service has administratively divided the United States into four Flyways for the primary purpose of managing migratory game birds. Each Flyway (Atlantic, Mississippi, Central, and Pacific) has a Flyway Council, a formal organization generally composed of one member from each State within the Flyway, as well as Provinces in Canada that share migratory bird populations with the Flyway. The Flyway Councils, established through the Association of Fish and Wildlife Agencies, also assist in researching and providing migratory

game bird management information for Federal, State, and Provincial governments, as well as private conservation entities and the general public.

The process for adopting migratory game bird hunting regulations (50 CFR part 20) is constrained by three primary factors. Legal and administrative considerations dictate how long the rulemaking process will last. Most importantly, however, the biological cycle of migratory game birds controls the timing of data-gathering activities and thus the dates on which these results are available for consideration and deliberation.

For the regulatory cycle, Service biologists gather, analyze, and interpret biological survey data and provide this information to all those involved in the process through a series of published status reports and presentations to Flyway Councils and other interested parties. Because the Service is required to take abundance of migratory game birds and other factors into consideration, the Service undertakes a number of surveys throughout the year in conjunction with Service Regional Offices, the Canadian Wildlife Service, and State and Provincial wildlife-management agencies. To determine the appropriate frameworks for each species, we consider factors such as population size and trend, geographical distribution, annual breeding effort, condition of breeding and wintering habitat, number of hunters, and anticipated harvest. After frameworks are established, States may select migratory game bird hunting seasons within these frameworks. States may always be more conservative in their selections than the Federal frameworks, but never more liberal.

**Service Migratory Bird Regulations Committee Meetings**

The SRC conducted an open meeting on April 6, 2021, to discuss preliminary issues for the 2022–23 regulations, and will conduct another meeting on September 28–29, 2021, to review information on the current status of migratory game birds and develop 2022–23 migratory game bird regulations recommendations for these species. In accordance with Departmental policy, these meetings are open to public observation. You may submit written comments to the Service on the matters discussed. See **DATES** and **ADDRESSES** for information about these meetings.

## Notice of Intent To Establish Open Seasons

This document announces our intent to establish open hunting seasons for certain designated groups or species of migratory game birds for 2022–23 in the contiguous United States, Alaska, Hawaii, Puerto Rico, and the Virgin Islands, under §§ 20.101 through 20.107, 20.109, and 20.110 of subpart K of 50 CFR part 20. For the 2022–23 migratory game bird hunting season, we will propose regulations for certain designated members of the avian families Anatidae (ducks, geese, and swans); Columbidae (doves and pigeons); Gruidae (cranes); Rallidae (rails, coots, and gallinules); and Scolopacidae (woodcock and snipe). We describe these proposals under Proposed 2022–23 Migratory Game Bird Hunting Regulations (Preliminary) in this document. We annually publish definitions of flyways and management units, and a description of the data used in and the factors affecting the regulatory process in proposed and final rules later in the regulations development process (see February 22, 2021, **Federal Register**, 86 FR 10622, for the latest definitions and descriptions).

### Regulatory Schedule for 2022–23

This document is the first in a series of proposed, supplemental, and final rulemaking documents for migratory game bird hunting regulations. We will publish additional supplemental proposals for public comment in the **Federal Register** as population, habitat, harvest, and other information become available. Major steps in the 2022–23 regulatory cycle relating to open public meetings and **Federal Register** notifications are illustrated in the diagram at the end of this proposed rule. All publication dates of **Federal Register** documents are target dates. All sections of this and subsequent documents outlining hunting frameworks and guidelines are organized under numbered headings. These headings are:

1. Ducks
  - A. General Harvest Strategy
  - B. Regulatory Alternatives
  - C. Zones and Split Seasons
  - D. Special Seasons/Species Management
    - i. Early Teal Seasons
    - ii. Early Teal/Wood Duck Seasons
    - iii. Black Ducks
    - iv. Canvasbacks
    - v. Pintails
    - vi. Scaup
    - vii. Mottled Ducks
    - viii. Wood Ducks
    - ix. Youth and Veterans-Active Military Personnel Hunting Days
    - x. Mallard Management Units
    - xi. Other

2. Sea Ducks
3. Mergansers
4. Canada Geese
  - A. Special Early Seasons
  - B. Regular Seasons
  - C. Special Late Seasons
5. White-fronted Geese
6. Brant
7. Snow and Ross's (Light) Geese
8. Swans
9. Sandhill Cranes
10. Coots
11. Gallinules
12. Rails
13. Snipe
14. Woodcock
15. Band-Tailed Pigeons
16. Doves
17. Alaska
18. Hawaii
19. Puerto Rico
20. Virgin Islands
21. Falconry
22. Other

This and subsequent documents will refer only to numbered items requiring attention. We will omit those items not requiring attention, and remaining numbered items may be discontinuous and appear incomplete.

The proposed regulatory alternatives for the 2022–23 duck hunting seasons are contained at the end of this document. We plan to publish final regulatory alternatives for duck seasons about fall 2021, proposed season frameworks about winter 2021, and final season frameworks near the end of February 2022.

### Review of Public Comments

This proposed rulemaking contains the proposed regulatory alternatives for the 2022–23 general duck hunting seasons. This proposed rulemaking also describes other recommended changes or specific preliminary proposals that vary from the 2021–22 regulations and issues requiring early discussion, action, or the attention of the States or Tribes. We will publish responses to all proposals and written comments when we develop final frameworks for the 2022–23 season. We seek additional information and comments on this proposed rule.

### Consolidation of Rulemaking Documents

For administrative purposes, this document consolidates the notice of our intent to establish open migratory game bird hunting seasons and the request for Tribal proposals with the preliminary proposals for the annual hunting regulations-development process. We will publish the remaining proposed and final rulemaking documents separately. For inquiries on Tribal guidelines and proposals, Tribes should contact:

Gregory Fleming, U.S. Fish and Wildlife Service Headquarters, Division of Migratory Bird Management, 5275 Leesburg Pike, Falls Church, VA 22041; telephone: 703–358–2391; email: [gregory\\_fleming@fws.gov](mailto:gregory_fleming@fws.gov).

### Requests for Tribal Proposals

#### Background

Beginning with the 1985–86 hunting season, we have employed guidelines described in the June 4, 1985, **Federal Register** (50 FR 23467) to establish special migratory game bird hunting regulations on Federal Indian reservations (including off-reservation trust lands) and ceded lands. We developed these guidelines in response to Tribal requests for our recognition of their reserved hunting rights, and for some Tribes, recognition of their authority to regulate hunting by both Tribal and nontribal members throughout their reservations. The guidelines include possibilities for:

- (1) On-reservation hunting by both Tribal and nontribal members, with hunting by nontribal members on some reservations to take place within Federal frameworks, but on dates different from those selected by the surrounding State(s);
- (2) On-reservation hunting by Tribal members only, outside of usual Federal frameworks for season dates, season length, and daily bag and possession limits; and
- (3) Off-reservation hunting by Tribal members on ceded lands, outside of usual framework dates and season length, with some added flexibility in daily bag and possession limits.

In all cases, Tribal regulations established under the guidelines must be consistent with the annual March 11 to August 31 closed season mandated by the 1916 Convention Between the United States and Great Britain (for Canada) for the Protection of Migratory Birds, as amended by the Protocol Between the Government of the United States of America and the Government of Canada Amending the 1916 Convention Between the United Kingdom and the United States of America for the Protection of Migratory Birds in Canada and the United States. The guidelines are applicable to those Tribes that have reserved hunting rights on Federal Indian reservations (including off-reservation trust lands) and ceded lands. They also may be applied to the establishment of migratory game bird hunting regulations for nontribal members on all lands within the exterior boundaries of reservations where Tribes have full wildlife-management authority over



such hunting, or where the Tribes and affected States otherwise have reached agreement over hunting by nontribal members on non-Indian lands.

Tribes usually have the authority to regulate migratory game bird hunting by nonmembers on Indian-owned reservation lands, subject to our approval. The question of jurisdiction is more complex on reservations that include lands owned by non-Indians, especially when the surrounding States have established or intend to establish regulations governing migratory bird hunting by non-Indians on these lands. In such cases, we encourage the Tribes and States to reach agreement on regulations that would apply throughout the reservations. When appropriate, we will consult with a Tribe and State with the aim of facilitating an accord. We also will consult jointly with Tribal and State officials in the affected States where Tribes may wish to establish special hunting regulations for Tribal members on ceded lands. It is incumbent upon the Tribe and/or the State to request consultation as a result of the proposal being published in the **Federal Register**. We will not presume to make a determination, without being advised by either a Tribe or a State, that any issue is or is not worthy of formal consultation.

One of the guidelines provides for the continuation of Tribal members' harvest of migratory game birds on reservations where such harvest is a customary practice. We are supportive of this harvest provided it does not take place during the closed season required by the Convention and it is not so large as to adversely affect the status of the migratory game bird resource. Since the inception of these guidelines, we have reached annual agreement with Tribes for migratory game bird hunting by Tribal members on their lands or on lands where they have reserved hunting rights. We will continue to consult with Tribes that wish to reach a mutual agreement on hunting regulations for on-reservation hunting by Tribal members. These guidelines provide appropriate opportunity to accommodate the reserved hunting rights and management authority of Indian Tribes while also ensuring that the migratory game bird resource receives necessary protection. The conservation of this important international resource is paramount. Use of the guidelines is not required if a Tribe wishes to observe the hunting regulations established by the State(s) in which the reservation is located.

#### *Details Needed in Tribal Proposals*

Tribes that wish to use the guidelines to establish special hunting regulations for the 2022–23 migratory game bird hunting season should submit a proposal that includes: (1) The requested migratory game bird hunting season dates and other details regarding the proposed regulations; (2) harvest anticipated under the proposed regulations; and (3) Tribal capabilities to enforce migratory game bird hunting regulations. For those situations where limited capabilities to enforce regulations could result in harvest levels that significantly impact the migratory game bird resource, we also request information on the methods employed to monitor harvest and any potential measures to limit harvest levels.

A Tribe that desires the earliest possible opening of the migratory game bird season for nontribal members should specify this request in its proposal, rather than request a date that might not be within the final Federal frameworks. Similarly, unless a Tribe wishes to set more restrictive regulations than Federal regulations will permit for nontribal members, the proposal should request the same daily bag limit, possession limit, and season length for migratory game birds that Federal regulations are likely to permit for the States in the Flyway in which the reservation is located.

#### *Tribal Proposal Procedures*

We will publish details of Tribal proposals for public review in later **Federal Register** documents. Because of the time required for review by us and the public, Tribes that desire special migratory game bird hunting regulations for the 2022–23 hunting season should submit their proposals no later than December 1, 2021. Tribes should direct inquiries regarding the guidelines and proposals to the person listed above under the caption Consolidation of Rulemaking Documents. Tribes that request special migratory game bird hunting regulations for Tribal members on ceded lands should send a courtesy copy of the proposal to officials in the affected State(s).

#### **Public Comments**

The Department of the Interior's policy is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, we invite interested persons to submit written comments, suggestions, or recommendations regarding the proposed regulations. Before promulgation of final migratory game bird hunting regulations, we will

take into consideration all comments we receive. Such comments, and any additional information we receive, may lead to final regulations that differ from these proposed rules.

You may submit your comments and materials concerning this proposed rule by one of the methods listed in **ADDRESSES**. We will not accept comments sent by email or fax or to an address not listed in **ADDRESSES**. Finally, we will not consider mailed comments that are not postmarked by the date specified in **DATES**. We will post all comments in their entirety—including your personal identifying information—on <http://www.regulations.gov>. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on <http://www.regulations.gov>.

For each series of proposed rulemakings, we will establish specific comment periods. We will consider, but may not respond in detail to, each comment. As in the past, we will summarize all comments we receive during the comment period and respond to them after the closing date in any final rules.

#### **National Environmental Policy Act (NEPA) Consideration**

The programmatic document, “Second Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (EIS 20130139),” filed with the Environmental Protection Agency (EPA) on May 24, 2013, addresses NEPA compliance by the Service for issuance of the annual framework regulations for hunting of migratory game bird species. We published a notice of availability in the **Federal Register** on May 31, 2013 (78 FR 32686), and our Record of Decision on July 26, 2013 (78 FR 45376). We also address NEPA compliance for waterfowl hunting frameworks through the annual preparation of separate environmental assessments, the most recent being “Duck Hunting Regulations for 2021–22,” with its corresponding March 2021



finding of no significant impact. In addition, an August 1985 environmental assessment entitled “Guidelines for Migratory Bird Hunting Regulations on Federal Indian Reservations and Ceded Lands” is available from the person listed above under the caption Consolidation of Rulemaking Documents.

#### Endangered Species Act Consideration

Before issuance of the 2022–23 migratory game bird hunting regulations, we will comply with provisions of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531–1543; hereinafter “the Act”), to ensure that hunting is not likely to jeopardize the continued existence of any species designated as endangered or threatened or adversely modify or destroy its critical habitat and is consistent with conservation programs for those species. Consultations under section 7 of the Act may cause us to change proposals in future supplemental proposed rulemaking documents.

#### Regulatory Planning and Review—Executive Orders 12866 and 13563

Executive Order (E.O.) 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. OIRA has reviewed this rule and has determined that this rule is significant because it would have an annual effect of \$100 million or more on the economy.

E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation’s regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. E.O. 13563 directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

An economic analysis was prepared for the 2022–23 migratory bird hunting season. This analysis was based on data from the 2016 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation (National Survey), the most recent year for which data are available (see discussion under Regulatory Flexibility Act, below). This

analysis estimated consumer surplus for three alternatives for duck hunting regulations. As defined by the U.S. Office of Management and Budget in Circular A–4, consumers’ surplus is the difference between what a consumer pays for a unit of a good or service and the maximum amount the consumer would be willing to pay for that unit. The duck hunting regulatory alternatives are (1) issue restrictive regulations allowing fewer days than those issued during the 2021–22 season, (2) issue moderate regulations allowing more days than those in Alternative 1, and (3) issue liberal regulations similar to the regulations in the 2021–22 season. For the 2021–22 season, we chose Alternative 3, with an estimated consumer surplus across all flyways of \$270–\$358 million with a mid-point estimate of \$314 million. We also chose Alternative 3 for the 2009–10 through 2020–21 seasons. The 2022–23 analysis is part of the record for this rule and is available at <http://www.regulations.gov> at Docket No. FWS–HQ–MB–2021–0057.

#### Regulatory Flexibility Act

The annual migratory bird hunting regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). An Initial Regulatory Flexibility Analysis was prepared to analyze the economic impacts of the annual hunting regulations on small business entities. This analysis is updated annually. The primary source of information about hunter expenditures for migratory game bird hunting is the National Survey, which is generally conducted at 5-year intervals. The 2021 analysis is based on the 2016 National Survey and the U.S. Department of Commerce’s County Business Patterns, from which it is estimated that migratory bird hunters would spend approximately \$2.2 billion at small businesses in 2022. Copies of the analysis are available upon request from the person listed above under the caption Consolidation of Rulemaking Documents or from <http://www.regulations.gov> at Docket No. FWS–HQ–MB–2021–0057.

#### Clarity of the Rule

We are required by E.O. 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- (a) Be logically organized;
- (b) Use the active voice to address readers directly;
- (c) Use clear language rather than jargon;

(d) Be divided into short sections and sentences; and

(e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in **ADDRESSES**. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

#### Small Business Regulatory Enforcement Fairness Act

This proposed rule is a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. For the reasons outlined above, this rule would have an annual effect on the economy of \$100 million or more. However, because this rule would establish hunting seasons, which are time sensitive, we do not plan to defer the effective date under the exemption contained in 5 U.S.C. 808(1).

#### Paperwork Reduction Act

This rule does not contain any new collection of information that requires approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). OMB has previously approved the information collection requirements associated with migratory bird surveys and the procedures for establishing annual migratory bird hunting seasons under the following OMB control numbers:

- 1018–0019, “North American Woodcock Singing Ground Survey” (expires 02/29/2024).
- 1018–0023, “Migratory Bird Surveys, 50 CFR 20.20” (expires 04/30/2023). Includes Migratory Bird Harvest Information Program, Migratory Bird Hunter Surveys, Sandhill Crane Survey, and Parts Collection Survey.
- 1018–0171, “Establishment of Annual Migratory Bird Hunting Seasons, 50 CFR part 20” (expires 02/29/2024).

You may view the information collection request(s) at <http://www.reginfo.gov/public/do/PRAMain>. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

#### Unfunded Mandates Reform Act

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Reform Act, 2

U.S.C. 1502 *et seq.*, that this proposed rulemaking would not impose a cost of \$100 million or more in any given year on local or State government or private entities. Therefore, this rule is not a “significant regulatory action” under the Unfunded Mandates Reform Act.

#### **Civil Justice Reform—Executive Order 12988**

The Department, in promulgating this proposed rule, has determined that this proposed rule will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of E.O. 12988.

#### **Takings Implication Assessment**

In accordance with E.O. 12630, this proposed rule, authorized by the Migratory Bird Treaty Act, does not have significant takings implications and does not affect any constitutionally protected property rights. This rule would not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, this rule would allow hunters to exercise otherwise unavailable privileges and, therefore, would reduce restrictions on the use of private and public property.

#### **Energy Effects—Executive Order 13211**

E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. While this proposed rule is a significant regulatory action under E.O. 12866, it is not expected to adversely affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

#### **Government-to-Government Relationship With Tribes**

In accordance with the President’s memorandum of April 29, 1994, “Government-to-Government Relations with Native American Tribal Governments” (59 FR 22951), E.O. 13175, and 512 DM 2, we have evaluated possible effects on Federally recognized Indian Tribes and have determined that there are *de minimis* effects on Indian trust resources. However, in this proposed rule, we solicit proposals for special migratory bird hunting regulations for certain Tribes on Federal Indian reservations, off-reservation trust lands, and ceded lands for the 2022–23 migratory bird hunting season. The resulting proposals are contained in a separate proposed rule published in spring and final rule published in summer 2022. Through this process to establish annual hunting

regulations, we regularly coordinate with Tribes that are affected by this rule.

#### **Federalism Effects**

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. We annually prescribe frameworks from which the States make selections regarding the hunting of migratory birds, and we employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and Tribes to determine which seasons meet their individual needs. Any State or Tribe may be more restrictive in its regulations than the Federal frameworks at any time. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This process allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulations. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with E.O. 13132, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

#### **List of Subjects in 50 CFR Part 20**

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

#### **Authority**

The rules that eventually will be promulgated for the 2022–23 hunting season are authorized under 16 U.S.C. 703–711, 712, and 742 a–j.

#### **Shannon A. Estenoz,**

*Assistant Secretary for Fish and Wildlife and Parks.*

#### **Proposed 2022–23 Migratory Game Bird Hunting Regulations (Preliminary)**

Pending current information on populations, harvest, and habitat conditions, and receipt of recommendations from the four Flyway Councils, we may defer specific regulatory proposals. Due to the coronavirus pandemic, several annual monitoring activities that provide information used in developing regulatory recommendations have been temporarily cancelled or otherwise impacted. We intend to follow existing

harvest management strategies to the extent possible, although some modifications will be necessary due to the absence of status information for 2021 for many species and populations of game birds. Service staff are in the process of developing adjustments to the strategies to accommodate this issue. Given the recent cancellations, we cannot provide specific changes at this time, but will detail the changes in subsequent rulemaking and notices published in the **Federal Register**. Issues requiring early discussion, action, or the attention of the States or Tribes are described below.

#### **1. Ducks**

Categories used to discuss issues related to duck harvest management are: (A) General Harvest Strategy, (B) Regulatory Alternatives, (C) Zones and Split Seasons, and (D) Special Seasons/Species Management. Only those categories containing substantial recommendations are discussed below.

##### *A. General Harvest Strategy*

We will continue to use adaptive harvest management (AHM) to help determine appropriate duck-hunting regulations for the 2022–23 season. AHM is a tool that permits sound resource decisions in the face of uncertain regulatory impacts and provides a mechanism for reducing that uncertainty over time. We use an AHM protocol (decision framework) to evaluate four regulatory alternatives, each with a different expected harvest level, and choose the optimal regulation for duck hunting based on the status and demographics of mallards for the Mississippi, Central, and Pacific Flyways, and based on the status and demographics of a suite of four species (eastern waterfowl) in the Atlantic Flyway. We have specific AHM protocols that guide appropriate bag limits and season lengths for species of special concern, including black ducks, scaup, and pintails, within the general duck season. These protocols use the same outside season dates and lengths as those regulatory alternatives for the 2022–23 general duck seasons.

For the 2022–23 hunting season, we will continue to use independent optimizations to determine the appropriate regulatory alternative for mallard stocks in the Mississippi, Central, and Pacific Flyways and for eastern waterfowl in the Atlantic Flyway. This means that we will develop regulations for mid-continent mallards, western mallards, and eastern waterfowl independently based on the breeding stock that contributes primarily to each Flyway. We detailed

implementation of AHM protocols for mid-continent and western mallards in the July 24, 2008, **Federal Register** (73 FR 43290), and for eastern waterfowl in the September 21, 2018, **Federal Register** (83 FR 47868).

Due to the coronavirus pandemic and associated travel restrictions and human health concerns in the United States and Canada, certain migratory bird monitoring surveys have been cancelled in 2021. This includes the Waterfowl Breeding Population and Habitat Survey, which provides status information for many species of waterfowl, including those used in our AHM protocols. Consequently, in some cases, we will need to deviate from our AHM protocols and other decision processes to address missing data from 2021. We will adjust our AHM protocols and decision tools for general duck seasons and species of concern, including pintails, scaup, black ducks, canvasbacks, and wood ducks only to the extent necessary to inform the regulatory decisions for the 2022–23 season. For existing AHM protocols, we propose to use the strategy for each flyway, but use the long-term data and models to predict 2021 spring abundances of ducks and habitat conditions in place of the spring 2021 data, which will not be available. The predicted 2021 breeding populations would be used in combination with the most current policy matrix (*e.g.*, breeding population and pond counts) to develop recommendations for the 2022–23 hunting season. For other decision support tools such as those used for canvasback and blue-winged teal, similar to AHM protocols, we will develop statistical predictions of the 2021 spring abundance of these species to inform harvest regulation decisions for the 2022–23 hunting season. We will work cooperatively with the Flyway Councils as we develop a plan for addressing missing data in regulatory decision-making for the 2022–23 hunting season, and will post specific details about deviations from our AHM protocols and decision support tools on our website at <https://www.fws.gov/birds> when they become available.

### B. Regulatory Alternatives

The basic structure of the current regulatory alternatives for AHM was adopted in 1997. In 2002, based upon recommendations from the Flyway Councils, we extended framework dates in the “moderate” and “liberal” regulatory alternatives by changing the opening date from the Saturday nearest October 1 to the Saturday nearest September 24, and by changing the closing date from the Sunday nearest

January 20 to the last Sunday in January. These extended dates were made available with no associated penalty in season length or bag limits. In 2018, we adopted a closing duck framework date of January 31 for the “moderate” and “liberal” alternatives in the Atlantic Flyway as part of the Atlantic Flyway’s eastern waterfowl AHM protocol (83 FR 47868; September 21, 2018). We subsequently extended the framework closing date to January 31 across all four Flyways for the 2019–20 hunting season (84 FR 16152; April 17, 2019).

More recently, the John D. Dingell, Jr. Conservation, Management, and Recreation Act of 2019 (Pub. L. 116–9, Dingell Act) amended the Migratory Bird Treaty Act to establish that the closing framework date for duck seasons will be January 31, unless a flyway chooses an earlier closing date. Thus, in 2019, as directed by the Dingell Act, we adjusted the framework closing date under each regulatory alternative for all four Flyways to January 31 (84 FR 42996; August 19, 2019). In 2020, we agreed to move the opening framework date to one week earlier in the restrictive regulatory alternative for the Mississippi and Central Flyways beginning with the 2021–22 season based on their recommendations (85 FR 15870; March 19, 2020).

For the 2022–23 general duck season, we propose to utilize the same regulatory alternatives that are in effect for the 2021–22 season (see table at the end of this proposed rule for specifics of the regulatory alternatives). Alternatives are specified for each Flyway and are designated as “RES” for the restrictive, “MOD” for the moderate, and “LIB” for the liberal alternative. We plan to finalize AHM regulatory alternatives for the 2022–23 season in the supplemental proposed rule, which we plan to publish by fall of 2021 (see Schedule of Biological Information Availability, Regulations Meetings and **Federal Register** Publications for the 2022–23 Hunting Season at the end of this proposed rule for further information). We will propose a specific regulatory alternative in or around December 2021 for each of the Flyways to use for their 2022–23 seasons after status information and results from analytical adjustments to strategies become available in about late August 2021.

### D. Special Seasons/Species Management

#### xi. Other

For the Atlantic Flyway, under the eastern waterfowl AHM protocol for the

Atlantic Flyway, the mallard bag limit is not prescribed by the regulatory alternative but is instead based on a separate assessment of the harvest potential of eastern mallards. We will propose a specific mallard bag limit for the Atlantic Flyway in or around December 2021.

Also, although not part of any current harvest management strategy, we propose to allow South Dakota and Nebraska to continue to conduct a pilot study during the 2022–23 duck season of a two-tier regulation system as described in the March 19, 2020, proposed rule (85 FR 15870). This would be the second year of a planned 4-year pilot study. The intent of the two-tier license study is to evaluate whether regulations that relax hunters’ requirement to identify duck species can improve waterfowl hunter recruitment and retention. Declines in waterfowl hunter numbers have been of concern to the Service and the Flyway Councils, prompting the development of recruitment, retention, and reactivation (R3) efforts in the conservation community. The study would allow each person to obtain one of two license types during the duck season. The first license type would allow a daily bag limit as specified in the current duck regulations (six ducks), along with attendant species and sex restrictions. The second license type would allow a daily bag limit of only three ducks, but they could be of any species or sex. Additional years of study would be contingent on whether results from the first duck season (2021–22) warrant additional investigation. Memoranda of agreements between the Service and the two States specify the purpose of the study and the roles and responsibilities of each party while conducting the pilot study.

## 2. Sea Ducks

During the April 6, 2021, SRC meeting, the Atlantic Flyway Council recommended three changes to the special sea duck season in the Atlantic Flyway: (1) Elimination of the special sea duck season; (2) reduction of the sea duck daily bag limit within the regular duck season to 4 ducks in the aggregate of which no more than 3 may be scoters, long-tailed ducks, or eiders, and no more than 1 may be a hen eider; and (3) retention of the exception that allows shooting of crippled waterfowl from a boat under power in the currently defined special sea duck areas in the Atlantic Flyway. The Atlantic Flyway Council and SRC will again discuss and consider proposing sea duck harvest regulations during the September 28–29, 2021, SRC meeting. Any resultant

recommended regulations will be included in the proposed season frameworks published in or around December 2021 (see Schedule of Biological Information Availability, Regulations Meetings and **Federal Register** Publications for the 2022–23 Hunting Season at the end of this proposed rule). We are announcing these possible changes to sea duck hunting regulations in the Atlantic Flyway starting with the 2022–23 season now to allow the greatest opportunity for public review and comment.

Special season regulations are used to provide additional hunting opportunity for species considered to be underutilized or to address nuisance problems with overabundant species. We have authorized a special sea duck season (including eiders, long-tailed duck, and scoters) in the Atlantic Flyway since

1938. By 1973, 13 of the 17 Atlantic Flyway States allowed special seasons consisting of 107 days with a daily bag limit of 7 sea ducks. We reduced the scoter daily bag limit to 4 ducks in 1993. In 2016, we reduced the season length from 107 to 60 days and the daily bag limit from 6 to 5 sea ducks of which no more than 4 may be eiders, long-tailed ducks, or scoters. The 2016 restrictions were anticipated to reduce average annual sea duck harvest by approximately 25 percent compared to average annual harvest during the period 2011–2015. See the March 28, 2016, **Federal Register** (81 FR 17305) for a discussion of the Sea Duck Harvest Potential Assessment completed at that time.

The changes to the Atlantic Flyway sea duck regulations did not achieve the target reduction in total sea duck harvest. Therefore, we are considering

the changes recommended by the Atlantic Flyway Council due to the continued concern regarding the status and trends of sea duck populations in the Atlantic Flyway, and our desire to reduce sea duck harvest in the Atlantic Flyway below the average annual harvest observed during 2011–2015. Regarding the Council's recommendation to retain the regulation exception that allows shooting of crippled waterfowl from a boat under power in the currently defined special sea duck area, we provide that the purpose of this regulation is to protect human safety and minimize duck crippling loss associated with hunting ducks at sea in the Atlantic Flyway regardless of the special sea duck season.

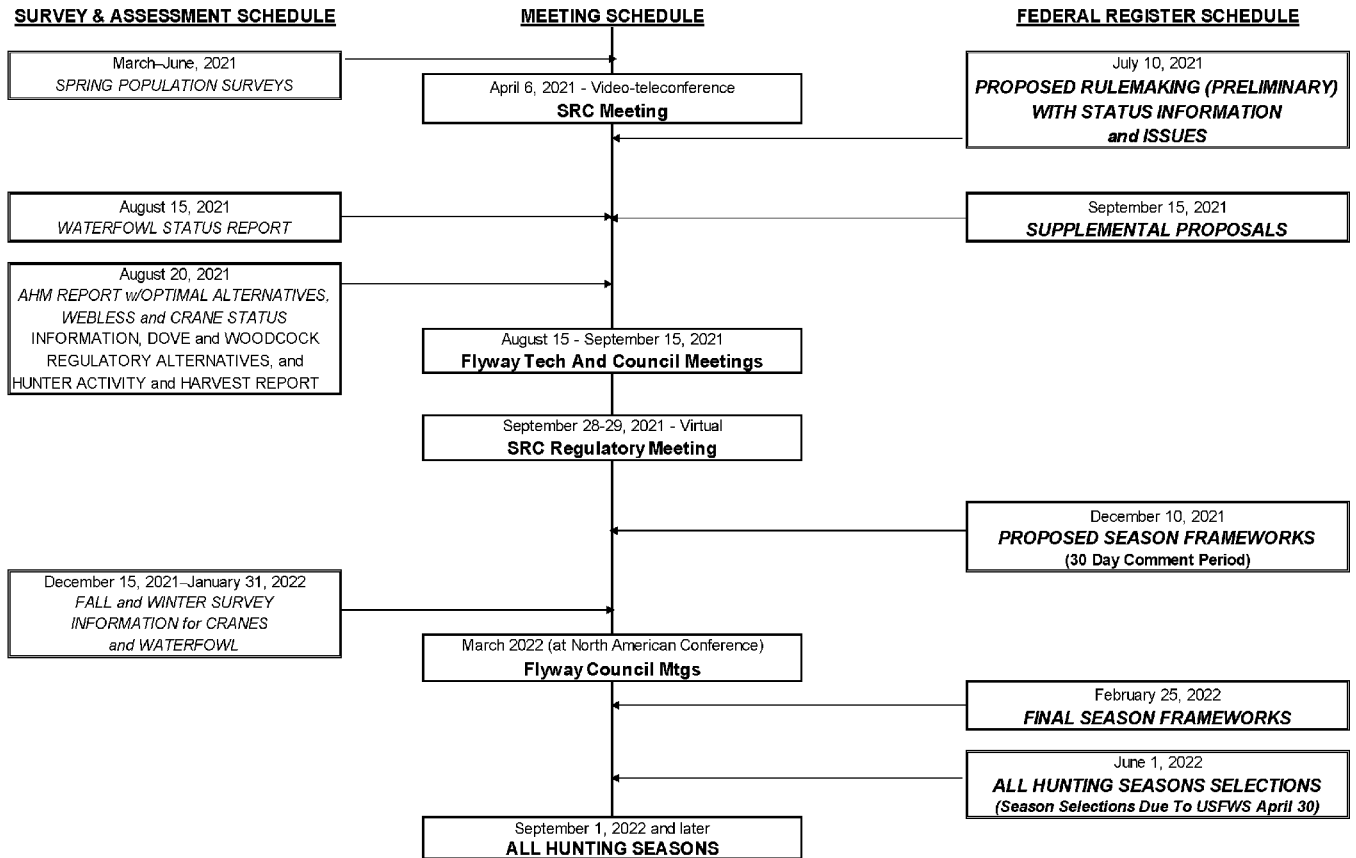
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**PROPOSED REGULATORY ALTERNATIVES FOR THE 2022-23 GENERAL DUCK SEASONS**

	ATLANTIC FLYWAY			MISSISSIPPI FLYWAY			CENTRAL FLYWAY (a)			PACIFIC FLYWAY (b)(c)		
	RES	MOD	LIB	RES	MOD	LIB	RES	MOD	LIB	RES	MOD	LIB
Beginning Shooting Time	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise
Ending Shooting Time	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset
Opening Date	Oct. 1	Sat. nearest Sept. 24	Sat. nearest Sept. 24	Sat. nearest Sept. 24	Sat. nearest Sept. 24	Sat. nearest Sept. 24	Sat. nearest Sept. 24	Sat. nearest Sept. 24	Sat. nearest Sept. 24	Sat. nearest Sept. 24	Sat. nearest Sept. 24	Sat. nearest Sept. 24
Closing Date	Jan. 31	Jan. 31	Jan. 31	Jan. 31	Jan. 31	Jan. 31	Jan. 31	Jan. 31	Jan. 31	Jan. 31	Jan. 31	Jan. 31
Season Length (in days)	30	45	60	30	45	60	39	60	74	60	86	107
Daily Bag	3	6	6	3	6	6	3	6	6	4	7	7
<b>Species/Sex Limits within the Overall Daily Bag Limit</b>												
Mallard (Total/Female)	(d)	(d)	(d)	2/1	4/1	4/2	3/1	5/1	5/2	3/1	5/2	7/2

- (a) In the High Plains Mallard Management Unit, all regulations would be the same as the remainder of the Central Flyway, with the exception of season length. Additional days would be allowed under the various alternatives as follows: restrictive - 12, moderate and liberal - 23. Under all alternatives, additional days must be on or after the Saturday nearest December 10.
- (b) In the Columbia Basin Mallard Management Unit, all regulations would be the same as the remainder of the Pacific Flyway, with the exception of season length. Under all alternatives except the liberal alternative, an additional 7 days would be allowed.
- (c) In Alaska, framework dates, bag limits, and season length would be different from the remainder of the Pacific Flyway. The bag limit (depending on the area) would be 5-8 under the restrictive alternative, and 7-10 under the moderate and liberal alternatives. Under all alternatives, season length would be 107 days and framework dates would be Sep. 1-Jan. 26.
- (d) Under the proposed multi-stock AHM protocol for the Atlantic Flyway, the mallard bag limit would not be prescribed by the regulatory alternative.

**SCHEDULE OF BIOLOGICAL INFORMATION AVAILABILITY, REGULATIONS MEETINGS AND FEDERAL REGISTER PUBLICATIONS FOR THE 2022–23 HUNTING SEASON**



[FR Doc. 2021–18742 Filed 8–30–21; 8:45 am]

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# Notices

Federal Register

Vol. 86, No. 166

Tuesday, August 31, 2021

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

[Document No. AMS-CN-21-0064]

#### 2021/2022 Rates Charged for AMS Services: Revised Tobacco Grading Rates

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Notice.

**SUMMARY:** The Agricultural Marketing Service (AMS) is announcing revisions to the 2021/2022 rates it will charge for voluntary grading services for tobacco. Revised rates are based on financial information obtained since the 2021/2022 rates were announced on April 21, 2021, and will be applied to all services provided since July 1, 2021, and thereafter.

**DATES:** September 1, 2021.

**FOR FURTHER INFORMATION CONTACT:** Dr. Stephen Slinsky, Economist, Cotton and Tobacco Program, AMS, USDA, 3275 Appling Road, Memphis, TN 38133; telephone (901) 384-3000, or email [stephen.slinsky@usda.gov](mailto:stephen.slinsky@usda.gov).

**SUPPLEMENTARY INFORMATION:** The Agricultural Marketing Act of 1946, as amended (AMA) (7 U.S.C. 1621-1627), provides for the collection of fees to cover costs of various inspection, grading, certification, or auditing services covering many agricultural commodities and products. More specifically, the Tobacco Inspection Act (7 U.S.C. 511-511s) provides for the recovery of costs associated with tobacco inspection and grading services.

On November 13, 2014, the U.S. Department of Agriculture (USDA) published in the **Federal Register** a final rule that established standardized formulas for calculating fee rates charged by AMS user-funded programs (79 FR 67313). Every year since then, USDA has published in the **Federal Register** a notice announcing rates for its user-funded programs.

On April 21, 2021, the notice announcing the 2021/2022 fee rates was published in the **Federal Register** (86 FR 20476). Since publication of this notice, per-unit rates necessary to cover direct and indirect costs associated with providing tobacco inspection and grading services and necessary to maintain mandated financial reserves have decreased. Therefore, AMS is announcing revisions to the 2021/2022 rates it will charge for voluntary grading services for tobacco. Revised rates are based on updated financial information and will be applied to all services provided since July 1, 2021, and thereafter.

Rates reflect direct and indirect costs of providing services. Direct costs

include the cost of salaries, employee benefits, operating costs and, if applicable, travel costs. Indirect or overhead costs include the cost of Program and Agency activities supporting services provided to the industry. The formula used to calculate these rates also considers the need to maintain operating reserves.

Services provided to the tobacco industry include the grading and certification of quality factors in accordance with established U.S. Grade Standards. The quality grades serve as a basis for market prices and reflect the value of agricultural commodities to both producers and consumers. AMS's grading and certification services are voluntary tools paid for by the users on a fee-for-service basis. Industry participants may choose to use these tools to promote and communicate the quality of tobacco to consumers. AMS is required by statute to recover costs associated with providing these services.

#### Rates Calculations

AMS calculated rates for services, on a per-unit basis, by dividing total AMS operating cost associated with tobacco grading, inspection and certification by the total number of units graded, inspected and certified the previous year, which is then multiplied by the next year's percentage of cost-of-living increase, plus an allowance for bad debt rate. If applicable, travel expenses may also be added to the cost of providing the service.

### 2021/2022 RATES

#### Tobacco fees

7 CFR Part 29—Tobacco Inspection:  
Subpart A—Policy Statement and Regulations Governing the Extension of Tobacco Inspection and Price Support Services to New Markets and to Additional Sales on Designated Markets; Subpart B—Regulations;  
§§ 29.123–29.129 Fees and Charges; § 29.500 Fees and charges for inspection and acceptance of imported tobacco  
Subpart F—Policy Statement and Regulations Governing the Identification and Certification of Non-quota Tobacco Produced and Marketed in Quota Area;  
§ 29.9251 Fees and Charges

	Regular	Overtime	Holiday	Includes travel costs in rate	Start date
Domestic Permissive Inspection and Certification (re-grading of domestic tobacco for processing plants, re-testing of imported tobacco, and grading tobacco for research stations).	\$55.00	\$64.00	\$72.00	.....	July 1, 2021.
Export Permissive Inspection and Certification (grading of domestic tobacco for manufacturers and dealers for duty drawback consideration).	\$0.0025/pound			X .....	July 1, 2021.

	Regular	Overtime	Holiday	Includes travel costs in rate	Start date
Grading for Risk Management Agency (for Tobacco Crop Insurance Quality Adjustment determinations).		\$0.015/pound		X .....	July 1, 2021.
Pesticide Test Sampling (collection of certified tobacco sample and shipment to AMS National Science Laboratory for testing).		\$0.0065/kg or \$0.0029/pound		X .....	July 1, 2021.
Pesticide Retest Sampling (collection of certified tobacco sample from a previously sampled lot for re-testing at the AMS National Science Laboratory; fee includes shipping).		\$115.00/sample and \$55.00/hour		X .....	July 1, 2021.
Standards Course (training by USDA-certified instructor on tobacco grading procedures).		\$1,250.00/person		.....	July 1, 2021.
Import Inspection and Certification (grading of imported tobacco for manufacturers and dealers).		\$0.0170/kg or \$0.0080/pound		X .....	July 1, 2021.

Authority: 7 U.S.C. 511, 511s; and 7 U.S.C. 1621–1627.

Erin Morris,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2021–18771 Filed 8–30–21; 8:45 am]

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**DEPARTMENT OF AGRICULTURE**

**Animal and Plant Health Inspection Service**

[Docket No. APHIS–2019–0053]

**Concurrence With OIE Risk Designations for Bovine Spongiform Encephalopathy**

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Notice.

**SUMMARY:** We are advising the public of our decision to concur with the World Organization for Animal Health’s (OIE) bovine spongiform encephalopathy (BSE) risk designations for Ecuador and Serbia. The OIE recognizes Ecuador as being of controlled risk for BSE and Serbia as being of negligible risk for BSE. We are taking this action based on our review of information supporting the OIE’s risk designations for these regions.

**FOR FURTHER INFORMATION CONTACT:** Dr. Kari Coulson, Senior Staff Veterinarian, Strategy and Policy, VS, APHIS, 920 Main Campus Drive, Suite 200, Raleigh, NC 27606; (919) 480–9876; email: AskRegionalization@usda.gov.

**SUPPLEMENTARY INFORMATION:** The regulations in 9 CFR part 92 subpart B, “Importation of Animals and Animal Products; Procedures for Requesting BSE Risk Status Classification With Regard To Bovines” (referred to below as the regulations), set forth the process by which the Animal and Plant Health Inspection Service (APHIS) classifies regions for bovine spongiform

encephalopathy (BSE) risk. Section 92.5 of the regulations provides that all countries of the world are considered by APHIS to be in one of three BSE risk categories: Negligible risk, controlled risk, or undetermined risk. These risk categories are defined in § 92.1. Any region that is not classified by APHIS as presenting either negligible risk or controlled risk for BSE is considered to present an undetermined risk. The list of those regions classified by APHIS as having either negligible risk or controlled risk can be accessed on the APHIS website at <https://www.aphis.usda.gov/aphis/ourfocus/animalhealth/animal-and-animal-product-import-information/animal-health-status-of-regions>. The list can also be obtained by writing to APHIS at Regionalization Evaluation Services, 4700 River Road, Unit 38, Riverdale, MD 20737.

Under the regulations, APHIS may classify a region for BSE in one of two ways. One way is for regions that have not received a risk classification from the World Organization for Animal Health (OIE) to request classification by APHIS. The other way is for APHIS to concur with the classification given to a country or region by the OIE.

If the OIE has classified a region as either BSE negligible risk or BSE controlled risk, APHIS will seek information to support concurrence with the OIE classification. This information may be publicly available information, or APHIS may request that regions supply the same information given to the OIE. APHIS will announce in the **Federal Register**, subject to public comment, its intent to concur with an OIE classification.

In accordance with this process, we published a notice<sup>1</sup> in the **Federal Register** on October 25, 2019 (84 FR 57384–57385, Docket No. APHIS 2019–0053), in which we announced our

<sup>1</sup> To view the notice, go to [www.regulations.gov](http://www.regulations.gov) and enter APHIS–2019–0053 in the Search field.

intent to concur with the OIE risk classifications of the following regions:

- *Regions of negligible risk for BSE:* Serbia.
- *Regions of controlled risk for BSE:* Ecuador.

We solicited comments on the notice for 60 days ending on December 24, 2019. We did not receive any comments by this date.

Therefore, in accordance with the regulations in § 92.5, we are announcing our decision to concur with the OIE risk classifications for Ecuador and Serbia.

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this action as not a major rule, as defined by 5 U.S.C. 804(2).

Authority: 7 U.S.C. 1622 and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this 25th day of August 2021.

Michael Watson,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2021–18788 Filed 8–30–21; 8:45 am]

BILLING CODE 3410–34–P

**DEPARTMENT OF AGRICULTURE**

**Food and Nutrition Service**

**National School Lunch, Special Milk, and School Breakfast Programs, National Average Payments/Maximum Reimbursement Rates; Correction**

**AGENCY:** Food and Nutrition Service (FNS), USDA.

**ACTION:** Notice, correction.

**SUMMARY:** The Food and Nutrition Service published a document on July 16, 2021, concerning reimbursement rates for the National School Lunch, Special Milk, and School Breakfast Programs. The document contained an incorrect table entry.

**FOR FURTHER INFORMATION CONTACT:** Mike Rizzo 703–305–4364.



**SUPPLEMENTARY INFORMATION:** In the **Federal Register** issue of July 16, 2021, appearing on pages 37733–37737 make the following correction: On page

37736, in the table “MEAL, SNACK AND MILK PAYMENTS TO STATES AND SCHOOL FOOD AUTHORITIES”, in the eighth column, in the second line,

“3.59” should read “3.50”. The corrected table appears below:  
**BILLING CODE 3410-30-P**

<b>SCHOOL PROGRAMS</b> <b>MEAL, SNACK AND MILK PAYMENTS TO STATES AND SCHOOL FOOD AUTHORITIES</b> <i>Expressed in Dollars or Fractions Thereof</i> <i>Effective from: July 1, 2021 - June 30, 2022</i>							
NATIONAL SCHOOL LUNCH PROGRAM <sup>1</sup>		LESS THAN 60%	LESS THAN 60% + 7 cents <sup>2</sup>	60% OR MORE	60% or MORE + 7 cents <sup>2</sup>	MAXIMUM RATE	MAXIMUM RATE + 7 cents <sup>2</sup>
CONTIGUOUS STATES	PAID	0.35	0.42	0.37	0.44	0.43	0.50
	REDUCED PRICE	3.26	3.33	3.28	3.35	3.43	3.50
	FREE	3.66	3.73	3.68	3.75	3.83	3.90
ALASKA	PAID	0.57	0.64	0.59	0.66	0.68	0.75
	REDUCED PRICE	5.54	5.61	5.56	5.63	5.79	5.86
	FREE	5.94	6.01	5.96	6.03	6.19	6.26
GUAM, HAWAII, PUERTO RICO and VIRGIN ISLANDS	PAID	0.41	0.48	0.43	0.50	0.49	0.56
	REDUCED PRICE	3.88	3.95	3.90	3.97	4.07	4.14
	FREE	4.28	4.35	4.30	4.37	4.47	4.54
SCHOOL BREAKFAST PROGRAM				NON-SEVERE NEED		SEVERE NEED	
CONTIGUOUS STATES	PAID			0.33		0.33	
	REDUCED PRICE			1.67		2.05	
	FREE			1.97		2.35	
ALASKA	PAID			0.50		0.50	
	REDUCED PRICE			2.85		3.48	
	FREE			3.15		3.78	
GUAM, HAWAII, PUERTO RICO and VIRGIN ISLANDS	PAID			0.38		0.38	
	REDUCED PRICE			1.99		2.44	
	FREE			2.29		2.74	
SPECIAL MILK PROGRAM				ALL MILK	PAID MILK	FREE MILK	
PRICING PROGRAMS WITHOUT FREE OPTION				0.2200	N/A	N/A	
PRICING PROGRAMS WITH FREE OPTION				N/A	0.2200	Average Cost Per 1/2 Pint of Milk	
NONPRICING PROGRAMS				0.2200	N/A	N/A	
AFTERSCHOOL SNACKS SERVED IN AFTERSCHOOL CARE PROGRAMS							
CONTIGUOUS STATES	PAID					0.09	
	REDUCED PRICE					0.50	
	FREE					1.00	
ALASKA	PAID					0.14	
	REDUCED PRICE					0.81	
	FREE					1.63	
GUAM, HAWAII, PUERTO RICO and VIRGIN ISLANDS	PAID					0.10	
	REDUCED PRICE					0.58	
	FREE					1.17	

<sup>1</sup> Payment listed for Free and Reduced Price Lunches include both section 4 and section 11 funds

<sup>2</sup> Performance-based cash reimbursement (adjusted annually for inflation)

Cynthia Long,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 2021-18733 Filed 8-30-21; 8:45 am]

BILLING CODE 3410-30-C

## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

#### Agency Information Collection Activities: Proposed Collection; Comment Request—Annual State Report on Verification of Supplemental Nutrition Assistance Program Participation

**AGENCY:** Food and Nutrition Service, USDA.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on the proposed information collection for the Annual State Report of Verification of Supplemental Nutrition Assistance Program (SNAP) Participation. This is a revision of a currently approved information collection request. The purpose of the Annual State Report of Verification of SNAP Participants is to ensure that no person who is deceased, or has been permanently disqualified from SNAP, improperly received SNAP benefits for the fiscal year preceding the report submission. Section 4032 of the Agricultural Act of 2014 is the basis for this collection. Section 4032 mandates that States will “submit to the Secretary a report containing sufficient information for the Secretary to determine whether the State agency has, for the most recently concluded fiscal year preceding that annual date, verified that the State agency in that fiscal year (1) did not issue benefits to a deceased individual; and (2) did not issue benefits to an individual who had been permanently disqualified from receiving benefits.” An email from each State agency to the corresponding Food and Nutrition Service (FNS) Regional SNAP Program Director containing the answers to the above questions will be used as the mechanism for State agencies to report their compliance with the Agriculture Act of 2014.

**DATES:** Written comments must be submitted on or before November 1, 2021.

**ADDRESSES:** Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the

accuracy of the agency’s estimated burden for the proposed information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to Maribelle Balbes, Branch Chief, State Administration Branch, Program Accountability and Administration Division, Food and Nutrition Service, 5th floor, 703-605-4272, U.S. Department of Agriculture, 1320 Braddock Place, Alexandria, VA 22314. You may also download an electronic version of this notice at <http://www.fns.usda.gov/snap/federal-register-documents/rules/view-all> and comment via email at [SNAPSAB@fns.usda.gov](mailto:SNAPSAB@fns.usda.gov) or the Federal e-Rulemaking Portal. Go to <http://www.regulations.gov> and follow the online instructions for submitting comments electronically.

All written comments will be open for public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5 p.m., Monday through Friday) at 1320 Braddock Place, Alexandria, VA 22314, 5th floor.

All comments to this notice will be included in the request for Office of Management and Budget approval. All comments will also become a matter of public record.

**FOR FURTHER INFORMATION CONTACT:**

Requests for additional information or copies of this information collection should be directed to Evan Sieradzki at 703-605-3212.

**SUPPLEMENTARY INFORMATION:**

*Title:* Annual State Report on Verification of SNAP Participation.

*OMB Number:* 0584-0605.

*Expiration Date:* July 31, 2022.

*Type of Request:* Revision of a currently approved information collection.

*Abstract:* SNAP regulations at 7 CFR 273.16 require that State agencies disqualify an individual who has committed an intentional program violation (IPV). Paragraph 7 CFR 273.16(e)(8) requires that these individuals “be disqualified in accordance with the disqualification periods and procedures in paragraph (b) of this section” (273.16(b)). Paragraph 7 CFR 273.16(i) requires State agencies to report information concerning each individual disqualified for an IPV to the

disqualified recipient database, the electronic Disqualified Recipient System (eDRS), and to use eDRS data to determine the eligibility of individual applicants prior to certification. SNAP regulations at 7 CFR 272.14 require that each State agency establish a system to verify and ensure that benefits are not issued to individuals who are deceased, and that data source is the Social Security Administration’s (SSA) Death Master File. The information required for the Annual State Report on Verification of SNAP Participation is obtained by validating that the State had the appropriate systems in place and followed procedures currently mandated at 7 CFR 272.14 and 7 CFR 273.16 for the preceding fiscal year. The burdens associated with establishing a system to verify and ensure that benefits are not issued to deceased individuals or those permanently disqualified from SNAP using both the SSA Death Master File and eDRS are already approved under OMB burden number 0584-0064, expiration date August 31, 2021. Upon OMB approval of the renewal of the information collection for 0584-0605, FNS intends to merge the hours associated with 0584-0605 into OMB Control Number 0584-0083, expiration 08/31/2023.

In order to meet the reporting requirements specified in section 4032 of the Act, States are required to confirm via email to their FNS Regional SNAP Program Director that in the immediately preceding Federal fiscal year, they had the appropriate systems in place to meet the requirements of regulations at 7 CFR 272.14 and 273.16(i)(4) and that they conducted the matches required by these regulations. States are required to submit their section 4032 reports to the FNS Regional SNAP Director by March 31 each year for the preceding Federal fiscal year. The estimated annual burden for this collection is 57.4255 hours. This estimate includes the time it takes each State agency to confirm that they have complied with FNS regulations for performing mandated checks against both eDRS and the SSA Death Master File, send an email to their FNS Regional Office SNAP Program Director to provide the verification, and any additional recordkeeping associated with this burden. States must perform this verification once a year and must retain these records for 3 years.

*Burden Estimates:* The previous burden for this collection was 53 reporting hours. The requested burden is 53 reporting hours. There is no change in reporting hours. The previous burden reported for recordkeeping was 4.41649. The requested recordkeeping

hours is 4.4255, a decrease of .00901 hours, due to program calculation adjustment.

*Affected Public:* State and local agencies, households.

*Estimated Number of Respondents:* 53.  
*Annual Reporting Burden Estimates:*

Regulation	Burden activity	Estimated number of respondents	Estimated responses per respondent	Estimated total annual responses	Estimated hours per response	Estimated total annual hours
<b>State Agency Reporting Burden</b>						
272.14 .....	Deceased Matching System .....	53	1	53	53	53
State Agency Total.	.....	53	1	53	1	53
<b>Recordkeeping</b>						
273.16(i)(4) .....	Recordkeeping for matching agreement and data sharing.	53	1	53	.0835	4.4255
Record-keeping Total.	.....	53	1	53	.0835	53
Grand Totals.	.....	53	1	53	1	57.4255

*Affected Public:* State, Local and Tribal Government Agencies.  
*Number of Respondents:* 53 State Agencies.

*Number of Responses per Respondent:* 1.

*Total Annual Responses:* 53.

*Reporting time per Response:* 1 Hour.

*Estimated Annual Reporting Burden Hours:* 53.

*Annual Recordkeeping Burden Estimates:*

*Affected Public:* State, Local and Tribal Government Agencies.

*Number of Respondents:* 53 State Agencies.

*Number of Responses per Respondent:* 1.

*Total Annual Responses:* 53.

*Reporting time per Response:* 0.0835 Hours.

*Estimated Annual Reporting Burden Hours:* 4.4255.

*Annual Grand Total Burden Estimates for Reporting and Recordkeeping:* 57.4255 hours.

**Cynthia Long,**

*Acting Administrator, Food and Nutrition Service.*

[FR Doc. 2021-18740 Filed 8-30-21; 8:45 am]

**BILLING CODE 3410-30-P**

**COMMISSION ON CIVIL RIGHTS**

**Notice of Public Meeting of the Pennsylvania Advisory Committee to the U.S. Commission on Civil Rights**

**AGENCY:** U.S. Commission on Civil Rights.

**ACTION:** Announcement of meeting.

**SUMMARY:** Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Pennsylvania Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold a meeting on Wednesday, October 6, 2021 at 10:00 a.m. Eastern time. The Committee will discuss civil rights concerns in the state.

**DATES:** The meeting will take place on Wednesday, October 6, 2021, from 10:00 a.m.–11:30 a.m. Eastern time.

Online Registration (Audio/Visual):

<https://bit.ly/2W7BqV2>

Telephone (Audio Only): Dial 800-360-9505 USA Toll Free; Access code: 199 419 4979

**FOR FURTHER INFORMATION CONTACT:**

Melissa Wojnaroski, DFO, at [mwojnaroski@usccr.gov](mailto:mwojnaroski@usccr.gov) or 312-353-8311.

**SUPPLEMENTARY INFORMATION:** Members of the public can listen to these discussions. Committee meetings are available to the public through the above call in number. Any interested member of the public may call this number and listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Individuals who are

deaf, deafblind and hard of hearing may also follow the proceedings by first calling the Federal Relay Service at 1-800-877-8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be emailed to Corrine Sanders at [csanders@usccr.gov](mailto:csanders@usccr.gov). Persons who desire additional information may contact the Regional Programs Unit at (312) 353-8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available via [www.facadatabase.gov](http://www.facadatabase.gov) under the Commission on Civil Rights, Pennsylvania Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, <http://www.usccr.gov>, or may contact the Regional Programs Unit at the above email or street address.

**Agenda**

Welcome and Roll Call  
Discussion: Civil Rights in Pennsylvania  
Future Plans and Actions  
Public Comment  
Adjournment

Dated: August 26, 2021.

**David Mussatt,**

*Supervisory Chief, Regional Programs Unit.*

[FR Doc. 2021-18774 Filed 8-30-21; 8:45 am]

**BILLING CODE 6335-01-P**

**COMMISSION ON CIVIL RIGHTS****Notice of Public Meeting of the Virginia Advisory Committee**

**AGENCY:** U.S. Commission on Civil Rights.

**ACTION:** Announcement of meeting.

**SUMMARY:** Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Virginia Advisory Committee (Committee) will hold a meeting via web conference on Thursday, September 23, 2021 at 12:00p Eastern Time. The purpose of the meeting is to discuss testimony heard on civil rights and police accountability in Virginia, and review additional panelist nominations for future panels in this study.

**DATES:** Thursday, September 23, 2021 at 12:00 p.m. Eastern Time.

*Online Registration (audio/visual):*  
<https://bit.ly/3yhbCmi>.

*Join by phone (audio only):* 800-360-9505 USA Toll Free; Access code: 199 005 2967.

**FOR FURTHER INFORMATION CONTACT:**

Melissa Wojnaroski, DFO, at [mwojnaroski@usccr.gov](mailto:mwojnaroski@usccr.gov) or (202) 618-4158.

**SUPPLEMENTARY INFORMATION:** Members of the public may listen to this discussion through the above call in number, or participate online via the above online registration link. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Closed captions will be provided. Individuals who are deaf, deafblind and hard of hearing may also follow the proceedings by first calling the Federal Relay Service at 1-800-877-8339 and providing the Service with the conference call number and conference ID number. Persons with disabilities requiring other accommodations are invited to contact the Regional Programs Unit at (202) 618-4158 or email Corrine Sanders at [csanders@usccr.gov](mailto:csanders@usccr.gov) 10 business days prior to the meeting to make their request.

Members of the public are entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be emailed to Melissa Wojnaroski at [mwojnaroski@usccr.gov](mailto:mwojnaroski@usccr.gov).

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available via [www.facadatabase.gov](http://www.facadatabase.gov) under the Commission on Civil Rights, Virginia Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, <http://www.usccr.gov>, or may contact the Regional Programs Unit at the above email or street address.

**Agenda**

- I. Welcome & Roll Call
- II. SAC Discussion
- III. Public Comment
- IV. Adjournment

Dated: August 26, 2021.

**David Mussatt,**

*Supervisory Chief, Regional Programs Unit.*

[FR Doc. 2021-18775 Filed 8-30-21; 8:45 am]

**BILLING CODE P**

**DEPARTMENT OF COMMERCE****Foreign-Trade Zones Board**

[Order No. 2118]

**Reorganization of Foreign-Trade Zone 210 Under Alternative Site Framework; St. Clair County, Michigan**

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

*Whereas*, the Foreign-Trade Zones (FTZ) Act provides for “. . . the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,” and authorizes the Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs and Border Protection ports of entry;

*Whereas*, the Board adopted the alternative site framework (ASF) (15 CFR Sec. 400.2(c)) as an option for the establishment or reorganization of zones;

*Whereas*, the Economic Development Alliance of St. Clair County, grantee of Foreign-Trade Zone 210, submitted an application to the Board (FTZ Docket B-

35-2021, docketed April 29, 2021) for authority to reorganize under the ASF with a service area of Huron, Lapeer, Macomb, Sanilac, and St. Clair Counties, in and adjacent to the Port Huron, Michigan, U.S. Customs and Border Protection port of entry, and FTZ 210's existing Sites 1-4 would be categorized as magnet sites;

*Whereas*, notice inviting public comment was given in the **Federal Register** (86 FR 24380, May 6, 2021) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

*Whereas*, the Board adopts the findings and recommendations of the examiners' report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied;

*Now, therefore*, the Board hereby orders:

The application to reorganize FTZ 210 under the ASF is approved, subject to the FTZ Act and the Board's regulations, including Section 400.13, to the Board's standard 2,000-acre activation limit for the zone, and to an ASF sunset provision for magnet sites that would terminate authority for Sites 1-4 if not activated within five years from the month of approval.

Dated: August 25, 2021.

**Christian B. Marsh,**

*Acting Assistant Secretary for Enforcement and Compliance, Alternate Chairman, Foreign-Trade Zones Board.*

[FR Doc. 2021-18721 Filed 8-30-21; 8:45 am]

**BILLING CODE 3510-DS-P**

**DEPARTMENT OF COMMERCE****International Trade Administration**

[A-570-888]

**Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof From the People's Republic of China: Continuation of Antidumping Duty Order**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** As a result of the determinations by the Department of Commerce (Commerce) and the International Trade Commission (ITC) that revocation of the antidumping duty (AD) order on floor-standing, metal-top ironing tables and certain parts thereof (ironing tables) from the People's Republic of China (China) would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States,

Commerce is publishing a notice of continuation of the antidumping duty order.

**DATES:** Applicable August 31, 2021.

**FOR FURTHER INFORMATION CONTACT:** Michael J. Heaney or Jacqueline Arrowsmith, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-4475 or (202) 482-5255, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

On August 6, 2004, Commerce published the AD order on ironing tables from China.<sup>1</sup> On February 1, 2021, Commerce initiated the third five-year (sunset) review of the *Order* pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).<sup>2</sup> As a result of its review, Commerce determined that revocation of the *Order* would likely lead to a continuation or recurrence of dumping and, therefore, notified the ITC of the magnitude of the margins likely to prevail should the *Order* be revoked.<sup>3</sup> On August 18, 2021, the ITC published its determination, pursuant to section 751(c) of the Act, that revocation of the *Order* would likely lead to a continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.<sup>4</sup>

**Scope of the Order**

For purposes of this *Order*, the product covered consists of floor-standing, metal-top ironing tables, assembled or unassembled, complete or incomplete, and certain parts thereof. The subject tables are designed and used principally for the hand ironing or pressing of garments or other articles of fabric. The subject tables have full-height leg assemblies that support the

ironing surface at an appropriate (often adjustable) height above the floor. The subject tables are produced in a variety of leg finishes, such as painted, plated, or matte, and they are available with various features, including iron rests, linen racks, and others. The subject ironing tables may be sold with or without a pad and/or cover. All types and configurations of floor-standing, metal-top ironing tables are covered by this review.

Furthermore, this *Order* specifically covers imports of ironing tables, assembled or unassembled, complete or incomplete, and certain parts thereof. For purposes of this *Order*, the term “unassembled” ironing table means a product requiring the attachment of the leg assembly to the top or the attachment of an included feature such as an iron rest or linen rack. The term “complete” ironing table means product sold as a ready-to-use ensemble consisting of the metal-top table and a pad and cover, with or without additional features, e.g., iron rest or linen rack. The term “incomplete” ironing table means product shipped or sold as a “bare board”—i.e., a metal-top table only, without the pad and cover—with or without additional features, e.g., iron rest or linen rack. The major parts or components of ironing tables that are intended to be covered by this *Order* under the term “certain parts thereof” consist of the metal top component (with or without assembled supports and slides) and/or the leg components, whether or not attached together as a leg assembly. The *Order* covers separately shipped metal top components and leg components, without regard to whether the respective quantities would yield an exact quantity of assembled ironing tables.

Ironing tables without legs (such as models that mount on walls or over doors) are not floor-standing and are specifically excluded. Additionally, tabletop or countertop models with short legs that do not exceed 12 inches in length (and which may or may not collapse or retract) are specifically excluded.

The subject ironing tables were previously classified under Harmonized Tariff Schedule of the United States (HTSUS) subheading 9403.20.0010. Effective July 1, 2003, the subject ironing tables are classified under HTSUS subheading 9403.20.0011. The subject metal top and leg components are classified under HTSUS subheading 9403.90.8040. Although the HTSUS subheadings are provided for convenience and for U.S. Customs and Border Protection (CBP) purposes, the

written description of the scope remains dispositive.

**Continuation of the Order**

As a result of the determinations by Commerce and the ITC that revocation of the *Order* would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, Commerce hereby orders the continuation of the antidumping order on ironing tables from China. CBP will continue to collect antidumping duty cash deposits at the rates in effect at the time of entry for all imports of subject merchandise. The effective date of the continuation of the *Order* will be the date of publication in the **Federal Register** of this notice of continuation. Pursuant to section 751(c)(2) of the Act, Commerce intends to initiate the next five-year review of the *Order* not later than 30 days prior to the fifth anniversary of the effective date of continuation.

**Notification to Interested Parties**

This five-year (sunset) review and this notice are in accordance with section 751(c) of the Act and published pursuant to section 777(i)(1) of the Act.

Dated: August 25, 2021.

**Christian Marsh,**

*Acting Assistant Secretary for Enforcement and Compliance.*

[FR Doc. 2021-18790 Filed 8-30-21; 8:45 am]

**BILLING CODE 3510-DS-P**

**DEPARTMENT OF COMMERCE**

**International Trade Administration**

[A-570-983]

**Drawn Stainless Steel Sinks From the People's Republic of China: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review; 2020-2021**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (Commerce) preliminarily determines that certain companies made sales of subject merchandise at less than normal value. The period of review (POR) is April 1, 2020, through March 31, 2021. Additionally, Commerce is rescinding this review with respect to multiple companies. Interested parties are invited to comment on these preliminary results.

**DATES:** Applicable August 31, 2021.

**FOR FURTHER INFORMATION CONTACT:** Adam Simons, AD/CVD Operations,

<sup>1</sup> See *Notice of Final Determination of Sales at Less Than Fair Value: Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof from the People's Republic of China*, 69 FR 35296 (June 24, 2004) (Final Determination); see also *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof from the People's Republic of China*, 69 FR 47868 (August 6, 2004) (*Order*).

<sup>2</sup> See *Initiation of Five-Year (Sunset) Reviews*, 86 FR 7709 (February 1, 2021).

<sup>3</sup> See *Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof from the People's Republic of China: Final Results of Expedited Third Sunset Review of the Antidumping Duty Order*, 86 FR 30255 (June 7, 2021), and accompanying Issues and Decision Memorandum.

<sup>4</sup> See *Ironing Tables and Certain Parts Thereof from China: Determination*, 86 FR 46275 (August 18, 2021); (Investigation No. 731-TA-1047 (Third Review), USITC Publication 5221 (August 2021).

Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-6172.

#### SUPPLEMENTARY INFORMATION:

##### Background

On June 11, 2021, Commerce published a notice of initiation of an administrative review of the antidumping duty order drawn stainless steel sinks from the People's Republic of China (China) covering the period April 1, 2020, through March 31, 2021, with respect to 29 companies.<sup>1</sup> Due to a timely withdrawal request, we are rescinding the review with respect to 27 of these companies.<sup>2</sup> Therefore, the results of this review cover the two remaining companies: Jiangmen New Star Hi-Tech Enterprise Ltd. (New Star) and KaiPing Dawn Plumbing Products, Inc. (KaiPing).

##### Scope of the Order

The products covered by the order include drawn stainless steel sinks from China. Imports of subject merchandise are currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7324.10.0000 and 7324.10.0010. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.<sup>3</sup>

##### Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act).

For a full description of the methodology underlying our conclusions, see the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://>

<sup>1</sup> See *Initiation of Antidumping and Countervailing Duty Reviews*, 86 FR 31282 (June 11, 2021).

<sup>2</sup> See Petitioner's Letter, "Notice of Partial Withdrawal of Request for Administrative Review," dated July 13, 2021 (Petitioner's Withdrawal Letter).

<sup>3</sup> For a complete description of the scope of the order, see Memorandum, "Decision Memorandum for Preliminary Results of the 2020-2021 Antidumping Duty Administrative Review," issued concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[enforcement.trade.gov/frn/index.html](https://enforcement.trade.gov/frn/index.html). A list of topics included in the Preliminary Decision Memorandum is provided as an appendix to this notice.

##### Partial Rescission of Administrative Review

Section 351.213(d)(1) of Commerce's regulations provides that Commerce will rescind an administrative review, in whole or in part, if all parties that requested a review withdraw their requests for review within 90 days of the publication date of the notice of initiation of the requested review. On July 13, 2021, the petitioner timely withdrew its request for administrative review of the following companies: (1) B&R Industries Limited; (2) Feidong Import and Export Co., Ltd.; (3) Foshan Shunde MingHao Kitchen Utensils Co., Ltd.; (4) Foshan Zhaoshun Trade Co., Ltd.; (5) Franke Asia Sourcing Ltd.; (6) Grand Hill Work Company; (7) Guangdong Dongyuan Kitchenware Industrial Co., Ltd.; (8) Guangdong G-Top Import & Export Co., Ltd.; (9) Guangdong New Shichu Import & Export Company Limited; (10) Guangdong Yingao Kitchen Utensils Co., Ltd.; (11) Hangzhou Heng's Industries Co., Ltd.; (12) Hubei Foshan Success Imp & Exp Co. Ltd.; (13) J&C Industries Enterprise Limited; (14) Jiangmen Hongmao Trading Co., Ltd.; (15) Jiangmen Pioneer Import & Export Co., Ltd.; (16) Jiangxi Zoje Kitchen & Bath Industry Co., Ltd.; (17) Ningbo Afa Kitchen and Bath Co., Ltd./Yuyao Afa Kitchenware Co., Ltd.; (18) Ningbo Oulin Kitchen Utensils Co., Ltd.; (19) Primy Cooperation Limited; (20) Shenzhen Kehauxing Industrial Ltd.; (21) Shunde Foodstuffs Import & Export Company Limited of Guangdong; (22) Shunde Native Produce Import and Export Co., Ltd. of Guangdong; (23) Xinhe Stainless Steel Products Co., Ltd.; (24) Zhongshan Newecan Enterprise Development Cooperation; (25) Zhongshan Silk Imp. & Exp. Group Co., Ltd. of Guangdong; (26) Zhongshan Superte Kitchenware Co., Ltd.; and (27) Zhuhai Kohler Kitchen & Bathroom Products Co. Ltd.<sup>4</sup> Because all review requests for these companies were timely withdrawn, in accordance with 19 CFR 351.213(d)(1), we are rescinding this review with respect to these companies. The administrative review will continue for the remaining companies for which a review was requested and not withdrawn: KaiPing and New Star.

<sup>4</sup> See Petitioner's Withdrawal Letter.

##### China-Wide Entity

In accordance with Commerce's policy, the China-wide entity will not be under review unless a party specifically requests, or Commerce self-initiates, a review of the entity.<sup>5</sup> Because no party requested a review of the China-wide entity in this review, the entity is not under review, and the entity's rate is not subject to change (*i.e.*, 76.45 percent).<sup>6</sup>

##### Preliminary Results of Review

Commerce finds that the two respondents remaining in this administrative review, KaiPing and New Star, have not established their eligibility for a separate rate and are considered to be part of the China-wide entity for these preliminary results.

##### Disclosure and Public Comment

Interested parties may submit case briefs no later than 30 days after the date of publication of this notice.<sup>7</sup> Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than seven days after the time limit for filing case briefs.<sup>8</sup> Parties who submit case brief or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.<sup>9</sup> Case and rebuttal briefs should be filed using ACCESS.<sup>10</sup>

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically via ACCESS within 30 days after the date of

<sup>5</sup> See *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963 (November 4, 2013).

<sup>6</sup> The China-wide rate determined in the investigation was 76.53 percent. See *Drawn Stainless Steel Sinks from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 78 FR 21592 (April 11, 2013). This rate was adjusted for export subsidies and estimated domestic subsidy pass through to determine the cash deposit rate (76.45 percent) collected for companies in China-wide entity. See explanation in *Drawn Stainless Steel Sinks from the People's Republic of China: Investigation, Final Determination*, 78 FR 13019 (February 26, 2013).

<sup>7</sup> See 19 CFR 351.309(c).

<sup>8</sup> See 19 CFR 351.309(d); see also *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19*, 85 FR 17006 (March 26, 2020), and *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020) (collectively, *Temporary Rule*).

<sup>9</sup> See 19 CFR 351.309(c)(2).

<sup>10</sup> See 19 CFR 351.303.

publication of this notice.<sup>11</sup> Hearing requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held.<sup>12</sup>

An electronically-filed document must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time on the established deadline. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.<sup>13</sup>

Commerce intends to issue the final results of this administrative review, which will include the results of its analysis of all issues raised in the case briefs, not later than 120 days after the date of publication of this notice, unless otherwise extended.<sup>14</sup>

#### Assessment Rates

Upon issuance completion of the administrative review, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review.<sup>15</sup> For the final results, if we continue to treat KaiPing and New Star as part of the China-wide entity, we will instruct CBP to apply an *ad valorem* assessment rate of 76.45 percent to all entries of subject merchandise during the POR that were produced and/or exported by KaiPing and New Star.

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

For the companies for which we have rescinded this administrative review, antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR

351.212(c)(1)(i). Commerce intends to issue appropriate assessment instructions directly to CBP no earlier than 35 days after the date of publication of this notice in the **Federal Register**.

#### Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For previously investigated or reviewed Chinese and non-Chinese exporters not listed above that have separate rates, the cash deposit rate will continue to be equal to the exporter-specific weighted-average dumping margin published of the most recently-completed segment of this proceeding; (2) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the rate for China-wide entity, 76.45 percent; and (3) for all exporters of subject merchandise which are not located in China and which are not eligible for a separate rate, the cash deposit rate will be the rate applicable to Chinese exporter(s) that supplied that non-Chinese exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

#### Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of double antidumping duties.

#### Notification to Interested Parties

We are issuing and publishing these preliminary results in accordance with sections 751(a)(l) and 777(i)(l) of the Act.

Dated: August 25, 2021.

**Christian Marsh,**

*Acting Assistant Secretary for Enforcement and Compliance.*

#### Appendix

##### List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary

II. Background

III. Scope of the Order

IV. Discussion of the Methodology

V. Recommendation

[FR Doc. 2021-18755 Filed 8-30-21; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[Application No. 99-14A05]

#### Export Trade Certificate of Review

**ACTION:** Corrected Notice of Application to Amend the Export Trade Certificate of Review Issued to California Almond Export Association, LLC ("CAEA"), Application No. 99-14A05.

**SUMMARY:** The Secretary of Commerce, through the Office of Trade and Economic Analysis ("OTEA") of the International Trade Administration, received an application for an amended Export Trade Certificate of Review ("Certificate"). This notice summarizes the proposed amendment and requests comments relevant to whether the Certificate should be issued. A previous notice was published for this application on July 8, 2021; this notice corrects the name of a proposed new Member, Bear Nut Republic, to Bear Republic Nut.

#### FOR FURTHER INFORMATION CONTACT:

Joseph Flynn, Director, OTEA, International Trade Administration, by telephone at (202) 482-5131 (this is not a toll-free number) or email at [etca@trade.gov](mailto:etca@trade.gov).

**SUPPLEMENTARY INFORMATION:** Title III of the Export Trading Company Act of 1982 (15 U.S.C. Sections 4001-21) ("the Act") authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. An Export Trade Certificate of Review protects the holder and the members identified in the Certificate from State and Federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. The regulations implementing Title III are found at 15 CFR part 325. OTEA is issuing this notice pursuant to 15 CFR 325.6(a), which requires the Secretary of Commerce to publish a summary of the application in the **Federal Register**, identifying the applicant and each member and summarizing the proposed export conduct.

<sup>11</sup> See 19 CFR 351.310(c).

<sup>12</sup> See 19 CFR 351.310(d).

<sup>13</sup> See 19 CFR 351.309; see also 19 CFR 351.303 (for general filing requirements); and *Temporary Rule*.

<sup>14</sup> See section 751(a)(3)(A) of the Act.

<sup>15</sup> See 19 CFR 351.212(b)(1).



**Request for Public Comments**

Interested parties may submit written comments relevant to the determination whether an amended Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked as privileged or confidential business information will be deemed to be nonconfidential.

An original and five (5) copies, plus two (2) copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to: Office of Trade and Economic Analysis, International Trade Administration, U.S. Department of Commerce, Room 21028, Washington, DC 20230.

Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the amended Certificate. Comments should refer to this application as "Export Trade Certificate of Review, application number 99-14A05."

**Summary of the Application**

*Applicant:* CAEA.

*Contact:* Deeana Estigarribia,  
*DEstigarribia@BDGrowers.com.*

*Application No.:* 99-14A05.

*Date Deemed Submitted:* June 22, 2021.

*Proposed Amendment:* CAEA seeks to amend its Certificate by adding the following companies as Members of the Certificate within the meaning of section 325.2(1) of the Regulations (15 CFR 325.2(1)):

- Bear Republic Nut, Chico, CA.
- JSS Almonds, LLC, Bakersfield, CA.
- VF Marking Corporation DBA Vann Family Orchards, Williams, CA.

CAEA's proposed amendment of its Certificate would result in the following Members list:

Almonds California Pride, Inc., Caruthers, CA  
 Baldwin-Minkler Farms, Orland, CA  
 Bear Republic Nut, Chico, CA  
 Blue Diamond Growers, Sacramento, CA  
 Campos Brothers, Caruthers, CA  
 Chico Nut Company, Chico, CA  
 Del Rio Nut Company, Livingston, CA  
 Fair Trade Corner, Inc., Chico, CA  
 Fisher Nut Company, Modesto, CA  
 Hilltop Ranch, Inc., Ballico, CA  
 Hughson Nut, Inc., Hughson, CA  
 JSS Almonds, LLC, Bakersfield, CA  
 Mariani Nut Company, Winters, CA  
 Nutco, LLC d.b.a. Spycher Brothers, Turlock, CA

Pearl Crop, Inc., Stockton, CA  
 P-R Farms, Inc., Clovis, CA  
 Roche Brothers International Family Nut Co., Escalon, CA  
 RPAC, LLC, Los Banos, CA  
 South Valley Almond Company, LLC, Wasco, CA  
 Stewart & Jasper Marketing, Inc., Newman, CA  
 SunnyGem, LLC, Wasco, CA  
 VF Marking Corporation DBA Vann Family Orchards, Williams, CA  
 Western Nut Company, Chico, CA  
 Wonderful Pistachios & Almonds, LLC, Los Angeles, CA

Dated: August 26, 2021.

**Joseph Flynn,**

*Director, Office of Trade and Economic Analysis, International Trade Administration, U.S. Department of Commerce.*

[FR Doc. 2021-18751 Filed 8-30-21; 8:45 am]

**BILLING CODE 3510-DR-P**

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration**

[RTID: 0648-XB374]

**Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice; public meeting.

**SUMMARY:** The Mid-Atlantic Fishery Management Council will hold a webinar workshop to demonstrate electronic vessel trip reporting (eVTR) through an approved software application in preparation for required commercial electronic reporting.

**DATES:** The workshop will be held via webinar on Wednesday, September 15, 2021, beginning at 5 p.m. and concluding by 7 p.m. For details, see **SUPPLEMENTARY INFORMATION.**

**ADDRESSES:** This workshop will be held via webinar and connection and agenda information will be posted at the MAFMC's website: <https://www.mafmc.org/council-events>.

*Council address:* Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674-2331; [www.mafmc.org](http://www.mafmc.org).

**FOR FURTHER INFORMATION CONTACT:** Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526-5255.

**SUPPLEMENTARY INFORMATION:** This is the first of several Council-hosted eVTR training workshops open to the public

and targeted towards commercial operators. Beginning on November 10, 2021, all commercial vessels with federal permits for species managed by the Mid-Atlantic or New England Council will be required to submit vessel trip reports (VTRs) electronically as eVTRs within 48 hours of the end of a trip (unless required sooner as with some sector allocations). This action does not change any other existing requirements associated with VTRs. These changes were recommended by the MAFMC and NEFMC in order to increase the timeliness and availability of data submitted through VTRs, reduce the reporting burden on commercial vessel operators, and increase the accuracy and quality of data. The training workshop will review step by step instructions for filling out an eVTR using an approved software application.

**Special Accommodations**

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Shelley Spedden at the Mid-Atlantic Council Office, (302) 526-5253, at least 5 days prior to the meeting date.

*Authority:* 16 U.S.C. 1801 *et seq.*

Dated: August 25, 2021.

**Tracey L. Thompson,**

*Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2021-18692 Filed 8-30-21; 8:45 am]

**BILLING CODE 3510-22-P**

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration**

[RTID 0648-XB373]

**North Pacific Fishery Management Council; Public Meeting**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of webconference.

**SUMMARY:** The North Pacific Fishery Management Council (NPFMC) Ecosystem Committee will meet September 15, 2021.

**DATES:** The meeting will be held on Wednesday, September 15, 2021, from 9 a.m. to 5 p.m., Alaska Time.

**ADDRESSES:** The meeting will be a webconference. Join online through the link at <https://meetings.npfmc.org/Meeting/Details/2481>.

*Council address:* North Pacific Fishery Management Council, 1007 W

3rd Ave., Anchorage, AK 99501–2252; telephone: (907) 271–2809. Instructions for attending the meeting are given under **SUPPLEMENTARY INFORMATION**, below.

**FOR FURTHER INFORMATION CONTACT:** Steve MacLean, Council staff; phone; (907) 271–2809 and email: [steve.maclean@noaa.gov](mailto:steve.maclean@noaa.gov). For technical support please contact administrative Council staff, email: [npfmc.admin@noaa.gov](mailto:npfmc.admin@noaa.gov).

**SUPPLEMENTARY INFORMATION:**

**Agenda**

*Wednesday, September 15, 2021*

The Ecosystem Committee agenda will include: (a) Review summary of forage fish research in Alaska; (b) summary of NOAA marine debris activities and program; (c) update on OECM database and CCC subcommittee work; (d) update from ecosystem workshop planning group; and (e) other business. The agenda is subject to change, and the latest version will be posted at <https://meetings.npfmc.org/Meeting/Details/2481> prior to the meeting, along with meeting materials.

**Connection Information**

You can attend the meeting online using a computer, tablet, or smart phone; or by phone only. Connection information will be posted online at: <https://meetings.npfmc.org/Meeting/Details/2481>.

**Public Comment**

Public comment letters will be accepted and should be submitted electronically to <https://meetings.npfmc.org/Meeting/Details/2481>.

*Authority:* 16 U.S.C. 1801 *et seq.*

Dated: August 25, 2021.

**Tracey L. Thompson,**

*Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2021–18691 Filed 8–30–21; 8:45 am]

**BILLING CODE 3510–22–P**

**DENALI COMMISSION**

**Denali Commission Fiscal Year 2022 Draft Work Plan**

**AGENCY:** Denali Commission.

**ACTION:** Notice.

**SUMMARY:** The Denali Commission (Commission) is an independent Federal agency based on an innovative federal-state partnership designed to provide critical utilities, infrastructure and support for economic development and training in Alaska by delivering federal

services in the most cost-effective manner possible. The Commission is required to develop an annual work plan for future spending which will be published in the **Federal Register**, providing an opportunity for a 30-day period of public review and written comment. This **Federal Register** notice serves to announce the 30-day opportunity for public comment on the Denali Commission Draft Work Plan for Federal Fiscal Year 2022 (FY 2022).

**DATES:** Comments and related material to be received by September 15, 2021.

**ADDRESSES:** Submit comments to the Denali Commission, Attention: Anne Stanislawski, 510 L Street, Suite 410, Anchorage, AK 99501.

**FOR FURTHER INFORMATION CONTACT:** Anne Stanislawski, Denali Commission, 510 L Street, Suite 410, Anchorage, AK 99501. Telephone: (907) 271–3011. Email: [astanislawski@denali.gov](mailto:astanislawski@denali.gov).

**SUPPLEMENTARY INFORMATION:**

*Background:* The Denali Commission's mission is to partner with tribal, federal, state, and local governments and collaborate with all Alaskans to improve the effectiveness and efficiency of government services, to build and ensure the operation and maintenance of Alaska's basic infrastructure, and to develop a well-trained labor force employed in a diversified and sustainable economy.

By creating the Commission, Congress mandated that all parties involved partner together to find new and innovative solutions to the unique infrastructure and economic development challenges in America's most remote communities. Pursuant to the Denali Commission Act, the Commission determines its own basic operating principles and funding criteria on an annual federal fiscal year (October 1 to September 30) basis. The Commission outlines these priorities and funding recommendations in an annual work plan. The FY 2022 Work Plan was developed in the following manner.

- A workgroup comprised of Denali Commissioners and Commission staff developed a preliminary draft work plan.
- The preliminary draft work plan was published on *Denali.gov* for review by the public in advance of public testimony.
- A public hearing was held to record public comments and recommendations on the preliminary draft work plan.
- Written comments on the preliminary draft work plan were accepted for another ten days after the public hearing.

- All public hearing comments and written comments were provided to Commissioners for their review and consideration.

- Commissioners discussed the preliminary draft work plan in a public meeting and then voted on the work plan during the meeting.

- The Commissioners forwarded their recommended work plan to the Federal Co-Chair, who then prepared the draft work plan for publication in the **Federal Register** providing a 30-day period for public review and written comment. During this time, the draft work plan will also be disseminated to Commission program partners including, but not limited to, the Bureau of Indian Affairs (BIA), the Economic Development Administration (EDA), Department of Agriculture—Rural Utilities Service (USDA/RUS), and the State of Alaska.

- At the conclusion of the **Federal Register** Public comment period Commission staff provides the Federal Co-Chair with a summary of public comments and recommendations, if any, on the draft work plan.

- If no revisions are made to the draft, the Federal Co-Chair provides notice of approval of the work plan to the Commissioners, and forwards the work plan to the Secretary of Commerce for approval; or, if there are revisions the Federal Co-Chair provides notice of modifications to the Commissioners for their consideration and approval, and upon receipt of approval from Commissioners, forwards the work plan to the Secretary of Commerce for approval.

- The Secretary of Commerce approves the work plan.

- The Federal Co-Chair then approves grants and contracts based upon the approved work plan.

**FY 2022 Appropriations Summary**

The Commission has historically received federal funding from several sources. The two primary sources at this time include the Energy & Water Appropriation Bill (“base” or “discretionary” funds) and an annual allocation from the Trans-Alaska Pipeline Liability (TAPL) fund. The proposed FY 2022 Work Plan assumes the Commission will receive \$15,000,000 of base funds, which is the amount referenced in the reauthorization of the Commission passed by Congress in 2016 (ref: Pub. L. 114–322), and a \$2,917,000 TAPL allocation based on discussions with the Office of Management and Budget (OMB). Approximately \$4,000,000 of the base funds will be used for administrative expenses and non-project

program support, leaving \$11,000,000 available for program activities. The total base funding shown in the Work Plan also includes an amount typically available from project closeouts and other de-obligations that occur in any given year. Approximately \$117,000 of the TAPL funds will be utilized for administrative expenses and non-project program support, leaving \$2,800,000 available for program activities. Absent any new specific direction or limitations provided by Congress in the current Energy & Water Appropriations Bill, these funding sources are governed by the following general principles, either by statute or by language in the Work Plan itself:

- Funds from the Energy & Water Appropriation are eligible for use in all programs.

- TAPL funds can only be used for bulk fuel related projects and activities.

- Appropriated funds may be reduced due to Congressional action, rescissions by OMB, and other federal agency actions.

- All Energy & Water and TAPL investment amounts identified in the work plan, are “up to” amounts, and may be reassigned to other programs included in the current year work plan, if they are not fully expended in a program component area or a specific project.

- Energy & Water and TAPL funds set aside for administrative expenses that subsequently become available, may be used for program activities included in the current year work plan.

**DENALI COMMISSION FY2022 FUNDING SUMMARY**

Source	Available for program activities
<b>Energy &amp; Water Funds</b>	
FY 2022 Energy & Water Appropriation <sup>1</sup> .....	\$11,000,000
Subtotal .....	11,000,000
<b>TAPL Funds</b>	
FY 2022 Annual Allocation ...	2,800,000
Grand Total .....	13,800,000

**Notes:**  
<sup>1</sup> If the final appropriation is less than \$15 million the Federal Co-Chair shall reduce investments to balance the FY 2022 Work Plan.

	Base	TAPL	Total
<b>Energy Reliability and Security:</b>			
Diesel Power Plants and Interties .....	\$2,900,000		\$2,900,000
Wind, Hydro, Biomass, Other Proven Renewables and Emerging Technologies .....	750,000		750,000
Audits, TA, & Community Energy Efficiency Improvements .....	375,000		375,000
RPSU Maintenance and Improvement Projects .....	900,000		900,000
Subtotal .....	4,925,000		4,925,000
<b>Bulk Fuel Safety and Security:</b>			
New/Refurbished Facilities .....		1,500,000	1,500,000
Maintenance and Improvement Projects .....		700,000	700,000
Subtotal .....	0	2,200,000	2,200,000
Village Infrastructure Protection .....	500,000		500,000
Transportation .....	1,000,000		1,000,000
<b>Sanitation:</b>			
Village Water, Wastewater and Solid Waste .....	1,500,000		1,500,000
Subtotal .....	1,500,000		1,500,000
Health Facilities .....	750,000		750,000
Housing .....	500,000		500,000
Broadband .....	750,000		750,000
<b>Workforce Development:</b>			
Energy and Bulk Fuel .....	375,000	600,000	975,000
Other .....	700,000		700,000
Subtotal .....	3,075,000	600,000	3,675,000
<b>Totals</b> .....	<b>13,000,000</b>	<b>2,800,000</b>	<b>15,800,000</b>

**Notes:**

<sup>1</sup> The Commissioners decided that if appropriations exceed the anticipated \$15M then up to \$2M will be allocated to Workforce Development, \$250K to Broadband and \$5M to the Village Infrastructure Program.

**John Whittington**

*General Counsel.*

[FR Doc. 2021-18682 Filed 8-30-21; 8:45 am]

**BILLING CODE 3300-01-P**

**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

[Docket No. TX21-4-000]

**City and County of San Francisco; Notice of Filing**

Take notice that on August 20, 2021, pursuant to section 210 and 211 of the Federal Power Act,<sup>1</sup> the City and County of San Francisco (JVR) filed an application requesting that the Federal

<sup>1</sup> 16 U.S.C. 825i, 824j, (2018).

Energy Regulatory Commission (Commission) issue an order requiring Pacific Gas and Electric Company to provide interconnection and transmission services for existing loads as of January 1, 2022.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission’s Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to

the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact FERC at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call toll-free, (886) 208-3676 or TYY, (202) 502-8659.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

*Comment Date:* 5:00 p.m. Eastern Time on September 10, 2021.

Dated: August 25, 2021.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2021-18734 Filed 8-30-21; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. CP21-463-000]

#### Texas Eastern Transmission, LP; Notice of Application and Establishing Intervention Deadline

Take notice that on June 17, 2021, Texas Eastern Transmission, LP (Texas Eastern), 5400 Westheimer Court, Houston, Texas 77056, filed an application under sections 7(b) and 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations for its proposed Holbrook Compressor Units Replacement Project (Project). Texas Eastern requests authorization to abandon twelve existing reciprocating compressor units at its Holbrook Compressor Station (Station) located in Richhill Township, Greene County, Pennsylvania, and replace them with two new, more efficient compressor units. Texas Eastern states that the Project will ensure the continued safe and reliable operation of the Station, at its certificated capacity, while meeting all current air emissions requirements, by replacing the existing reciprocating units at the Station. Texas Eastern states that the Project will result in a substantially equivalent designed horsepower at the Holbrook Compressor Station, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call toll-free, (886) 208-3676 or TYY, (202) 502-8659.

Any questions regarding Texas Eastern's application may be directed to Estela D. Lozano, Director, Regulatory, Texas Eastern Transmission, LP, P.O. Box 1642, Houston, Texas 77251-1642,

by telephone at (713) 627-4522 or by email at [estela.lozano@enbridge.com](mailto:estela.lozano@enbridge.com).

Pursuant to section 157.9 of the Commission's Rules of Practice and Procedure,<sup>1</sup> within 90 days of this Notice the Commission staff will either: Complete its environmental review and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or environmental assessment (EA) for this proposal. The filing of an EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

#### Public Participation

There are three ways to become involved in the Commission's review of this project: You can file a protest to the project, you can file a motion to intervene in the proceeding, and you can file comments on the project. There is no fee or cost for filing protests, motions to intervene, or comments. The deadline for filing protests, motions to intervene, and comments is 5:00 p.m. Eastern Time on July 23, 2021. How to file comments and motions to intervene is explained below.

#### Comments

Any person wishing to comment on the project may do so. The Commission considers all comments received about the project in determining the appropriate action to be taken. To ensure that your comments are timely and properly recorded, please submit your comments on or before July 23, 2021. However, the filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding.

Persons who comment on the environmental review of this project will be placed on the Commission's environmental mailing list, and will receive notification when the environmental documents (EA or EIS) are issued for this project and will be notified of meetings associated with the

<sup>1</sup> 18 CFR 157.9.

Commission's environmental review process.

#### *Interventions*

Any person, which includes individuals, organizations, businesses, municipalities, and other entities,<sup>2</sup> has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure<sup>3</sup> and the regulations under the NGA<sup>4</sup> by the intervention deadline for the project, which is July 23, 2021. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. [For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene.] For more information about motions to intervene, refer to the FERC website at <https://www.ferc.gov/resources/guides/how-to/intervene.asp>.

All timely, unopposed motions to intervene are automatically granted by operation of Rule 214(c)(1). Motions to intervene that are filed after the intervention deadline are untimely and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

#### *How To File Comments and Interventions*

There are two ways to submit your comments and motions to intervene to the Commission. In all instances, please reference the Project docket numbers CP21-463-000 in your submission. The Commission encourages electronic filing of submissions.

(1) You may file your comments or motions to intervene electronically by

using the eFiling feature, which is located on the Commission's website ([www.ferc.gov](http://www.ferc.gov)) under the link to Documents and Filings. New eFiling users must first create an account by clicking on "eRegister." You will be asked to select the type of filing you are making; first select "General" and then select "Comment on a Filing" or "Intervention"; or

(2) You can file a paper copy of your comments by mailing them to the following address below. Your written comments must reference the Project docket numbers (CP21-463-000).

To mail via USPS, use the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To mail via any other courier, use the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Motions to intervene must be served on the applicant either by mail or email (with a link to the document) at: Texas Eastern Transmission, LP, P.O. Box 1642, Houston, Texas 77251-1642 or at [estela.lozano@enbridge.com](mailto:estela.lozano@enbridge.com). Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online. Service can be via email with a link to the document.

All timely, unopposed<sup>5</sup> motions to intervene are automatically granted by operation of Rule 214(c)(1).<sup>6</sup> Motions to intervene that are filed after the intervention deadline are untimely, and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations.<sup>7</sup> A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

#### **Tracking the Proceeding**

Throughout the proceeding, additional information about the project will be available from the Commission's Office of External Affairs, at (866) 208-

<sup>5</sup> The applicant has 15 days from the submittal of a motion to intervene to file a written objection to the intervention.

<sup>6</sup> 18 CFR 385.214(c)(1).

<sup>7</sup> 18 CFR 385.214(b)(3) and (d).

FERC, or on the FERC website [www.ferc.gov](http://www.ferc.gov) using the "eLibrary" link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to [www.ferc.gov/docs-filing/esubscription.asp](http://www.ferc.gov/docs-filing/esubscription.asp).

*Intervention Deadline:* 5:00 p.m. Eastern Time on July 23, 2021.

Dated: July 2, 2021.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2021-18666 Filed 8-30-21; 8:45 am]

**BILLING CODE 6717-01-P**

## **DEPARTMENT OF ENERGY**

### **Federal Energy Regulatory Commission**

#### **Combined Notice of Filings #1**

Take notice that the Commission received the following exempt wholesale generator filings:

*Docket Numbers:* EG21-234-000.

*Applicants:* Highest Power Solar, LLC.

*Description:* Self-Certification of Exempt Wholesale Generator of Highest Power Solar, LLC.

*Filed Date:* 8/23/21.

*Accession Number:* 20210823-5244.

*Comment Date:* 5 p.m. ET 9/13/21.

*Docket Numbers:* EG21-235-000.

*Applicants:* Mark One Generating, LLC.

*Description:* Notice of Self-Certification of Exempt Wholesale Generator Status of Mark One Generating, LLC.

*Filed Date:* 8/25/21.

*Accession Number:* 20210825-5076.

*Comment Date:* 5 p.m. ET 9/15/21.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER13-2387-009; ER15-190-018; ER18-1343-010.

*Applicants:* Carolina Solar Power, LLC, Duke Energy Renewable Services, LLC, Duke Energy Florida, Inc.

*Description:* Amendment to March 26, 2021 Notice of Non-Material Change in Status of Duke Energy Florida, LLC.

*Filed Date:* 6/29/21.

<sup>2</sup> 18 CFR 385.102(d).

<sup>3</sup> 18 CFR 385.214.

<sup>4</sup> 18 CFR 157.10.

*Accession Number:* 20210629–5138.  
*Comment Date:* 5 p.m. ET 9/15/21.

*Docket Numbers:* ER21–2426–000.

*Applicants:* CPRE 1 Lessee, LLC.

*Description:* Amendment to July 14, 2021 CPRE 1 Lessee, LLC tariff filing.  
*Filed Date:* 8/24/21.

*Accession Number:* 20210824–5123.

*Comment Date:* 5 p.m. ET 9/14/21.

*Docket Numbers:* ER21–2757–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing: Original WMPA 6160; Queue No. AG1–362 to be effective 7/27/2021.

*Filed Date:* 8/24/21.

*Accession Number:* 20210824–5088.

*Comment Date:* 5 p.m. ET 9/14/21.

*Docket Numbers:* ER21–2758–000.

*Applicants:* Southwestern Public Service Company.

*Description:* § 205(d) Rate Filing: SPS–GSEC–RBEC–Amend IA–Faria–724–0.1.0 to be effective 10/23/2021.

*Filed Date:* 8/24/21.

*Accession Number:* 20210824–5118.

*Comment Date:* 5 p.m. ET 9/14/21.

*Docket Numbers:* ER21–2759–000.

*Applicants:* Southwest Power Pool, Inc.

*Description:* § 205(d) Rate Filing: 3641R1 Haystack Wind Project, LLC GIA to be effective 8/17/2021.

*Filed Date:* 8/25/21.

*Accession Number:* 20210825–5033.

*Comment Date:* 5 p.m. ET 9/15/21.

*Docket Numbers:* ER21–2760–000.

*Applicants:* Mid-Atlantic Interstate Transmission, LLC, PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing: Mid-Atlantic Interstate Transmission, LLC submits tariff filing per 35.13(a)(2)(iii): MAIT submits four ECSAs, SA Nos. 6039, 6040, 6042 and 6048 to be effective 10/25/2021.

*Filed Date:* 8/25/21.

*Accession Number:* 20210825–5034.

*Comment Date:* 5 p.m. ET 9/15/21.

*Docket Numbers:* ER21–2761–000.

*Applicants:* American Transmission Systems, Incorporated, PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing: American Transmission Systems, Incorporated submits tariff filing per 35.13(a)(2)(iii): ATSI submits Six ECSAs, SA Nos. 6041 and 6043–6047 to be effective 10/25/2021.

*Filed Date:* 8/25/21.

*Accession Number:* 20210825–5035.

*Comment Date:* 5 p.m. ET 9/15/21.

*Docket Numbers:* ER21–2762–000.

*Applicants:* California Independent System Operator Corporation.

*Description:* § 205(d) Rate Filing: 2021–08–25 Certificate of

Concurrence—Sol Catcher BESS LGIA to be effective 8/5/2021.

*Filed Date:* 8/25/21.

*Accession Number:* 20210825–5063.

*Comment Date:* 5 p.m. ET 9/15/21.

*Docket Numbers:* ER21–2763–000.

*Applicants:* Alabama Power Company.

*Description:* § 205(d) Rate Filing: Origis Holdings USA Subco (O’Hara I Storage) LGIA Filing to be effective 8/11/2021.

*Filed Date:* 8/25/21.

*Accession Number:* 20210825–5084.

*Comment Date:* 5 p.m. ET 9/15/21.

*Docket Numbers:* ER21–2764–000.

*Applicants:* Highest Power Solar, LLC.  
*Description:* Baseline eTariff Filing: Highest Power Solar, LLC MBR Tariff to be effective 8/26/2021.

*Filed Date:* 8/25/21.

*Accession Number:* 20210825–5086.

*Comment Date:* 5 p.m. ET 9/15/21.

*Docket Numbers:* ER21–2765–000.

*Applicants:* Ameren Illinois Company.

*Description:* § 205(d) Rate Filing: Reimbursement Agreement, RS 154, Prairie Power East Quincy to be effective 10/25/2021.

*Filed Date:* 8/25/21.

*Accession Number:* 20210825–5091.

*Comment Date:* 5 p.m. ET 9/15/21.

*Docket Numbers:* ER21–2766–000.

*Applicants:* Central Line Solar, LLC.  
*Description:* Baseline eTariff Filing: Central Line Solar, LLC MBR Tariff to be effective 10/1/2021.

*Filed Date:* 8/25/21.

*Accession Number:* 20210825–5095.

*Comment Date:* 5 p.m. ET 9/15/21.

*Docket Numbers:* ER21–2767–000.

*Applicants:* Skipjack Solar Center, LLC.

*Description:* Baseline eTariff Filing: Skipjack Solar Center, LLC MBR Tariff to be effective 10/1/2021.

*Filed Date:* 8/25/21.

*Accession Number:* 20210825–5096.

*Comment Date:* 5 p.m. ET 9/15/21.

*Docket Numbers:* ER21–2768–000.

*Applicants:* Nevada Power Company.  
*Description:* Compliance filing: OATT Revisions to Attachment K Compliance to be effective 1/1/2022.

*Filed Date:* 8/25/21.

*Accession Number:* 20210825–5097.

*Comment Date:* 5 p.m. ET 9/15/21.

*Docket Numbers:* ER21–2769–000.

*Applicants:* PGR 2021 Lessee 7, LLC.  
*Description:* Baseline eTariff Filing: PGR 2021 Lessee 7, LLC MBR Tariff to be effective 8/26/2021.

*Filed Date:* 8/25/21.

*Accession Number:* 20210825–5102.

*Comment Date:* 5 p.m. ET 9/15/21.

*Docket Numbers:* ER21–2770–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing: Revision to Remove Preemption of Short Term Non-Firm Point-to-Point Transmission to be effective 10/25/2021.

*Filed Date:* 8/25/21.

*Accession Number:* 20210825–5120.

*Comment Date:* 5 p.m. ET 9/15/21.

Take notice that the Commission received the following qualifying facility filings:

*Docket Numbers:* QF21–1196–000.

*Applicants:* Bloom Energy Corporation.

*Description:* Form 556 of Bloom Energy Corporation [Billerica 1500kW].  
*Filed Date:* 8/25/21.

*Accession Number:* 20210825–5101.

*Comment Date:* 5 p.m. ET 9/15/21.

Take notice that the Commission received the following electric reliability filings:

*Docket Numbers:* RR21–9–000.

*Applicants:* North American Electric Reliability Corporation.

*Description:* Request of North American Electric Reliability Corporation for Acceptance of 2022 Business Plans and Budgets of NERC and Regional Entities and for Approval of Proposed Assessments to Fund Budgets.

*Filed Date:* 8/24/21.

*Accession Number:* 20210824–5141.

*Comment Date:* 5 p.m. ET 9/14/21.

The filings are accessible in the Commission’s eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission’s Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 25, 2021.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2021–18738 Filed 8–30–21; 8:45 am]

**BILLING CODE 6717–01–P**

**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission**

[Docket No. ER21–2748–000]

**Lund Hill Solar, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization**

This is a supplemental notice in the above-referenced proceeding of Lund Hill Solar, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is September 14, 2021.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number

field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: August 25, 2021.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2021–18735 Filed 8–30–21; 8:45 am]

BILLING CODE 6717–01–P

**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission****Combined Notice of Filings**

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

**Filings Instituting Proceedings**

*Docket Numbers:* RP21–1046–000.

*Applicants:* Big Sandy Pipeline, LLC, Bobcat Gas Storage, East Tennessee Natural Gas, LLC, Egan Hub Storage, LLC, Garden Banks Gas Pipeline, LLC, Maritimes & Northeast Pipeline, L.L.C., Mississippi Canyon Gas Pipeline, L.L.C., Moss Bluff Hub, LLC, Nautilus Pipeline Company, L.L.C., NEXUS Gas Transmission, LLC, Sabal Trail Transmission, LLC, Saltville Gas Storage Company L.L.C., Southeast Supply Header, LLC, Steckman Ridge, LP, Texas Eastern Transmission, LP, Algonquin Gas Transmission, LLC.

*Description:* Compliance filing: Big Sandy Pipeline, LLC submits tariff filing per 154.203: Enbridge (U.S.) Pipelines—Request for Waivers—LINK System Maintenance to be effective N/A.

*Filed Date:* 8/24/21.

*Accession Number:* 20210824–5066.

*Comment Date:* 5 p.m. ET 8/31/21.

*Docket Numbers:* RP19–1044–003.

*Applicants:* Cheniere Corpus Christi Pipeline, LP.

*Description:* Compliance filing: NAESB 3.1 Standard Waiver Update to be effective 9/24/2021.

*Filed Date:* 8/24/21.

*Accession Number:* 20210824–5108.

*Comment Date:* 5 p.m. ET 9/7/21.

*Docket Numbers:* RP19–1045–003.

*Applicants:* Cheniere Creole Trail Pipeline, L.P.

*Description:* Compliance filing: NAESB 3.1 Compliance Update—RP19–1045–002 to be effective 9/24/2021.

*Filed Date:* 8/24/21.

*Accession Number:* 20210824–5107.

*Comment Date:* 5 p.m. ET 9/7/21.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 25, 2021.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2021–18732 Filed 8–30–21; 8:45 am]

BILLING CODE 6717–01–P

**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission**

[EL10–65–010]

**Louisiana Public Service Commission v. Entergy Corporation; Entergy Services Inc.; Entergy Louisiana, LLC; Entergy Arkansas, Inc.; Entergy Mississippi, Inc.; Entergy New Orleans, Inc.; Entergy Gulf States Louisiana, L.L.C.; Entergy Texas, Inc.; Notice of Filing**

On May 17, 2021, Entergy Services, LLC,<sup>1</sup> acting as agent for Entergy Operating Companies<sup>2</sup> filed a compliance filing consisting of the bandwidth formula rate recalculations for the June–December 2005 test year; additional interest calculations for the 2010, 2011, and 2012 test years (fifth, sixth and seventh bandwidth calculations); and supporting workpapers for the identified adjustments, pursuant to the Federal Energy Regulatory Commission's

<sup>1</sup> Effective September 30, 2018, Entergy Services, Inc., changed its name to Entergy Services, LLC.

<sup>2</sup> The Entergy Operating Companies (Operating Companies) are currently Entergy Arkansas, LLC, (formerly Entergy Arkansas, Inc.), Entergy Louisiana, LLC, Entergy Mississippi, LLC (formerly Entergy Mississippi, Inc.), Entergy New Orleans, LLC (formerly Entergy New Orleans, Inc.), and Entergy Texas, Inc.



(Commission) Order issued dated April 15, 2021.<sup>3</sup>

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

In addition to publishing the full text of this document in the **Federal Register**, The Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact FERC at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call toll-free, (886) 208-3676 or TTY, (202) 502-8659.

*Comment Date:* 5:00 p.m. Eastern Time on September 15, 2021.

Dated: August 25, 2021.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2021-18739 Filed 8-30-21; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Western Area Power Administration

#### Colorado River Storage Project Management Center—Rate Order No. WAPA-195

**AGENCY:** Western Area Power Administration, DOE.

**ACTION:** Notice of rate order concerning joint dispatch transmission service formula rate for use under the Western Energy Imbalance Service (WEIS) Market.

**SUMMARY:** The formula rate for the Colorado River Storage Project Management Center (CRSP MC) of the Western Area Power Administration (WAPA) to use under the WEIS Market (Provisional Formula Rate) has been confirmed, approved, and placed into effect on an interim basis. This formula rate, approved under the WAPA Administrator's authority to establish rates for short term sales, expires on September 30, 2021. No changes were made to this formula rate for short-term sales under Rate Schedule SP-NFJDT (joint dispatch transmission service). CRSP MC has converted its existing rate for short-term sales for use under the WEIS Market to a long-term formula rate.

**DATES:** The Provisional Formula Rate under Rate Schedule SP-NFJDT (joint dispatch transmission service) is effective on the first day of the first full billing period beginning on or after October 1, 2021, and will remain in effect through September 30, 2024, pending confirmation and approval by the Federal Energy Regulatory Commission (FERC) on a final basis or until superseded.

**FOR FURTHER INFORMATION CONTACT:** Timothy A. Vigil, Colorado River Storage Project Management Center Manager, Western Area Power Administration, 1800 South Rio Grande Avenue, Montrose, CO 81401, email: [CRSPMC-rate-adj@wapa.gov](mailto:CRSPMC-rate-adj@wapa.gov), or Thomas J. Hackett, Rates Manager, Colorado River Storage Project Management Center, Western Area Power Administration, (801) 524-5503, email: [hackett@wapa.gov](mailto:hackett@wapa.gov).

**SUPPLEMENTARY INFORMATION:** On December 29, 2020, WAPA's Administrator approved the rate for short-term sales for CRSP MC to use under the WEIS Market, which created a new Rate Schedule, SP-NFJDT (joint dispatch transmission service), for the 8-month period of February 1, 2021, through September 30, 2021.

WAPA published a **Federal Register** notice (Proposed FRN) on April 23,

2021 (86 FR 21726), proposing to convert the rate for short-term sales for CRSP MC to use under the WEIS Market to a long-term formula rate for use October 1, 2021, through September 30, 2026. The Proposed FRN also initiated a 30-day public consultation and comment period. The Proposed FRN stated a term of 5 years for the long-term formula rate, but, as discussed in Rate Order No. WAPA-195, WAPA has determined that a 3-year term would be more appropriate, making the effective dates October 1, 2021, through September 30, 2024.

#### Legal Authority

By Delegation Order No. 00-037.00B, effective November 19, 2016, the Secretary of Energy delegated: (1) The authority to develop power and transmission rates to the WAPA Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve on a final basis, remand, or disapprove such rates to FERC. By Delegation Order No. S1-DEL-S4-2021, effective February 25, 2021, the Acting Secretary of Energy also delegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Under Secretary for Science (and Energy). By Redelegation Order No. S4-DEL-OE1-2021, effective March 25, 2021, the Acting Under Secretary for Science (and Energy) redelegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Assistant Secretary for Electricity. By Redelegation Order No. 00-002.10-05, effective July 8, 2020, the Assistant Secretary for Electricity further delegated the authority to confirm, approve, and place such rates into effect on an interim basis to WAPA's Administrator. This redelegation order, despite predating the February 2021 and March 2021 delegations, remains valid. This rate action is issued under the Redelegation Order No. 00-002.10-05 and Department of Energy procedures for public participation in rate adjustments as set forth at 10 CFR part 903.<sup>1</sup>

Following review of CRSP MC's proposal, I hereby confirm, approve, and place Rate Order No. WAPA-195, which provides a formula rate for joint dispatch transmission service for use under the WEIS Market, into effect on an interim basis. WAPA will submit Rate Order No. WAPA-195 to FERC for

<sup>3</sup> *La. Pub. Serv. Comm'n v. Entergy Corp., et al.*, 175 FERC ¶ 61,042 (2020).

<sup>1</sup> 50 FR 37835 (Sept. 18, 1985) and 84 FR 5347 (Feb. 21, 2019).



confirmation and approval on a final basis.

**DEPARTMENT OF ENERGY  
ADMINISTRATOR, WESTERN AREA  
POWER ADMINISTRATION**

*In the Matter of:* Western Area Power Administration, Colorado River Storage Project Management Center, Rate Adjustment for Colorado River Storage Project, Joint Dispatch Transmission Service

*Rate Order No. WAPA-195*

Order Confirming, Approving, and Placing Formula Rate for the Colorado River Storage Project Into Effect on an Interim Basis

The formula rate in Rate Order No. WAPA-195 is established following section 302 of the Department of Energy (DOE) Organization Act (42 U.S.C. 7152).<sup>2</sup>

By Delegation Order No. 00-037.00B, effective November 19, 2016, the Secretary of Energy delegated: (1) The authority to develop power and transmission rates to the Western Area Power Administration's (WAPA) Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve on a final basis, remand, or disapprove such rates to the Federal Energy Regulatory Commission (FERC). By Delegation Order No. S1-DEL-S4-2021, effective February 25, 2021, the Acting Secretary of Energy also delegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Under Secretary for Science (and Energy). By Redelegation Order No. S4-DEL-OE1-2021, effective March 25, 2021, the Acting Under Secretary for Science (and Energy) redelegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Assistant Secretary for Electricity. By Redelegation Order No. 00-002.10-05, effective July 8, 2020, the Assistant Secretary for Electricity further delegated the authority to confirm, approve, and place such rates into effect on an interim basis to WAPA's Administrator. This redelegation order, despite predating the February 2021 and March 2021 delegations, remains valid. This rate action is issued under the

Redelegation Order No. 00-002.10-05 and Department of Energy procedures for public participation in rate adjustments as set forth at 10 CFR part 903.<sup>3</sup>

**Acronyms, Terms, and Definitions**

As used in this Rate Order, the following acronyms, terms, and definitions apply:

*\$/MWh:* Dollars per megawatt-hour.

*Customer Rate Brochure:* Document that further explains the rate methodologies under Rate Order No. WAPA-195.

*CRCM:* The North American Electric Reliability Corporation (NERC)-registered Joint Dispatch Transmission Service Provider for WAPA's Colorado River Storage Project Management Center (CRSP MC) transmission facilities included in the Transmission System within the Western Energy Imbalance Service (WEIS) Market Footprint.

*Fiscal Year:* October 1 to September 30.

*NEPA:* National Environmental Policy Act of 1969, as amended.

*Provisional Formula Rate:* Formula rate confirmed, approved, and placed into effect on an interim basis by the Secretary or their designee.

*Transmission System:* The facilities owned, controlled, or operated by the CRSP MC that are used to provide transmission service.

*WEIS Market Footprint:* The loads and WEIS Market Resources that are located within the Balancing Authority Areas participating in the WEIS Market under the WEIS Tariff. The WEIS Market is the market for imbalance energy administered by Southwest Power Pool in the Western Interconnection.

**Effective Date**

The Provisional Formula Rate Schedule SP-NFJDT (joint dispatch transmission service) will take effect on the first day of the first full billing period beginning on or after October 1, 2021, and will remain in effect through September 30, 2024, pending approval by FERC on a final basis or until superseded.

**Public Notice and Comment**

CRSP MC followed the Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions, 10 CFR part 903, in developing this formula rate. Following are the steps CRSP MC took to involve interested parties in the rate process:

1. On April 23, 2021, a **Federal Register** notice (86 FR 21726) (Proposal

FRN) announced the proposed formula rate and launched a 30-day public consultation and comment period.

2. On April 23, 2021, the CRSP MC notified CRSP MC Customers and interested parties of the proposed rate and provided a copy of the published Proposal FRN.

3. CRSP MC provided a website that contains all dates, customer letters, presentations, FRNs, Customer Rate Brochure, and other information about this rate process. The website is located at: <https://www.wapa.gov/regions/CRSP/rates/Pages/CRSP-WEIS.aspx>.

4. During the 30-day consultation and comment period, which ended on May 24, 2021, CRSP MC received one written comment letter. The comments and CRSP MC's responses are addressed below. All comments have been considered in preparation of this Rate Order.

Written comments were received from the following organization:

Colorado River Energy Distributors Association, Arizona.

**Joint Dispatch Transmission Service**

CRSP MC converted its rate for short-term sales for use under the WEIS Market to a long-term formula rate. The rate schedule did not change in the process. The formula rate is designed to recover the annual costs of providing the service, as applicable, on an annual basis effective October 1 of each fiscal year.

For further details and explanations regarding this service, please see the final version of the Customer Rate Brochure dated July 26, 2021, located at: <https://www.wapa.gov/regions/CRSP/rates/Pages/CRSP-WEIS.aspx>.

**Comments**

The CRSP MC received one written comment letter during the public consultation and comment period. The comments expressed have been paraphrased, where appropriate, without compromising the meaning of the comments.

*A. Comment:* Commenter asked the CRSP MC to consider a 3-year term to run concurrently with the Rocky Mountain Region's (RMR) rates for participation in the WEIS Market. RMR sought a 3-year term to give "RMR time to refine the WEIS Market implementation and investigate the potential expansion of and participation in the Southwest Power Pool Regional Transmission Organization."

*Response:* CRSP MC agrees with the commenter's rationale and will also use the 3-year term for the same reason.

*B. Comment:* Commenter recommended terminology should be

<sup>2</sup> This Act transferred to, and vested in, the Secretary of Energy the power marketing functions of the Secretary of the Department of the Interior and the Bureau of Reclamation (Reclamation) under the Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), as amended and supplemented by subsequent laws, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)) and other acts that specifically apply to the projects involved.

<sup>3</sup> 50 FR 37835 (Sept. 18, 1985) and 84 FR 5347 (Feb. 21, 2019).

described or defined to allow the Rate Schedule to stand on its own and to consider defining “CRCM,” “Transmission System,” and “WEIS Market Footprint.”

*Response:* All terms were added to the Acronyms, Terms, and Definitions section above.

C. *Comment:* Commenter asked where specific description of the Transmission System and WEIS Market Footprint can be found.

*Response:* CRSP MC has made edits to the final version of the Customer Rate Brochure to coincide with the suggestions. Additionally, Attachment R to WAPA’s Open Access Transmission Tariff (OATT) contains provisions for the WEIS Market.

### Certification of Rates

I certified that the Provisional Formula Rate for CRSP MC under Rate Schedule SP–NFJDT (joint dispatch transmission service) is the lowest possible rate, consistent with sound business principles. The Provisional Formula Rate was developed following administrative policies and applicable laws.

### Availability of Information

Information about this rate adjustment, including the customer rate brochure, comments, letters, memorandums, and other supporting materials that were used to develop the Provisional Formula Rate, is available for inspection and copying at the Colorado River Storage Project Management Center Office, 1800 South Rio Grande Avenue, Montrose, CO. Many of these documents are also available on WAPA’s website at <https://www.wapa.gov/regions/CRSP/rates/Pages/CRSP-WEIS.aspx>.

### Ratemaking Procedure Requirements

#### Environmental Compliance

WAPA has determined that this action fits within the following categorical exclusions listed in appendix B to subpart D of 10 CFR 1021.410: B4.3 (Electric power marketing rate changes) and B4.4 (Power marketing services and activities). Categorically excluded projects and activities do not require preparation of either an environmental impact statement or an environmental assessment.<sup>4</sup> Specifically, WAPA has determined that this rulemaking is consistent with activities identified in

part B4, Categorical Exclusions Applicable to Specific Agency Actions (see 10 CFR part 1021, appendix B to subpart D, part B4). A copy of the categorical exclusion determination is available on WAPA’s website at: <https://www.wapa.gov/regions/CRSP/environment/Pages/environment.aspx>.

#### Determination Under Executive Order 12866

WAPA has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

#### Submission to the Federal Energy Regulatory Commission

The Provisional Formula Rate herein confirmed, approved, and placed into effect on an interim basis, together with supporting documents, will be submitted to FERC for confirmation and final approval.

### Order

In view of the above, and under the authority delegated to me, I hereby confirm, approve, and place into effect, on an interim basis, Rate Order No. WAPA–195. The rate will remain in effect on an interim basis until: (1) FERC confirms and approves it on a final basis; (2) a subsequent rate is confirmed and approved; or (3) such rate is superseded.

### Signing Authority

This document of the Department of Energy was signed on August 23, 2021, by Tracey A. LeBeau, Interim Administrator, Western Area Power Administration, pursuant to delegated authority from the Secretary of Energy. That document, with the original signature and date, is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE **Federal Register** Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on August 25, 2021.

**Treena V. Garrett,**

*Federal Register Liaison Officer, U.S. Department of Energy.*

### Rate Schedule SP–NFJDT

#### SCHEDULE 8R to OATT Attachment (Supersedes Rate Schedule SP–NFJDT dated February 1, 2021, through September 30, 2021)

#### United States Department of Energy Western Area Power Administration

#### Colorado River Storage Project Management Center

#### Colorado River Storage Project Joint Dispatch Transmission Service

*(Approved Under Rate Order No. WAPA–195)*

#### Effective

The first day of the first full billing period beginning on or after October 1, 2021, and extending through September 30, 2024, or until superseded by another rate schedule, whichever occurs earlier.

#### Applicable

This rate schedule applies to the Colorado River Storage Project (CRSP) as the Transmission Service Provider (TSP) when the Colorado River Storage Project Management Center is participating in the Western Energy Imbalance Service (WEIS) Market. The Joint Dispatch Transmission Service (JDTS) Customer shall compensate the CRSP TSP for JDTS commensurate with the receipt or delivery of energy dispatched for the JDTS Customer pursuant to the WEIS Tariff under the formula rate described herein.

#### Formula Rate

Hourly delivery:

On-Peak Hours: the on-peak charge  
\$0.00/MWh

Off-Peak Hours: the off-peak charge  
\$0.00/MWh

[FR Doc. 2021–18648 Filed 8–30–21; 8:45 am]

BILLING CODE 6450–01–P

### DEPARTMENT OF ENERGY

#### Western Area Power Administration

#### Loveland Area Projects and Western Area Colorado Missouri Balancing Authority—Rate Order No. WAPA–197

**AGENCY:** Western Area Power Administration, DOE.

**ACTION:** Notice of rate order concerning transmission, energy and generator imbalance, and losses formula rates for

<sup>4</sup> The determination was done in compliance with NEPA (42 U.S.C. 4321–4347); the Council on Environmental Quality Regulations for implementing NEPA (40 CFR parts 1500–1508); and DOE NEPA Implementing Procedures and Guidelines (10 CFR part 1021).

use under the Western Energy Imbalance Service (WEIS) Market.

**SUMMARY:** The formula rates for the Rocky Mountain Region (RMR) of the Western Area Power Administration (WAPA) to use under the WEIS Market (Provisional Formula Rates) have been confirmed, approved, and placed into effect on an interim basis. RMR has converted the existing rates for short-term sales for RMR to use under the WEIS Market to long-term formula rates. The existing formula rates (approved under the WAPA Administrator's short-term rate authority) expire on September 30, 2021. No changes were made to the existing formula rates under the rates for short-term sales under Rate Schedules L–NFJDT (joint dispatch transmission), L–AS4 (energy imbalance), L–AS7 (balancing authority real power losses), and L–AS9 (generator imbalance).

**DATES:** The Provisional Formula Rates under Rate Schedules L–NFJDT (joint dispatch transmission), L–AS4 (energy imbalance), L–AS7 (balancing authority real power losses), and L–AS9 (generator imbalance) are effective on the first day of the first full billing period beginning on or after October 1, 2021, and will remain in effect through September 30, 2024, pending confirmation and approval by the Federal Energy Regulatory Commission (FERC) on a final basis or until superseded.

**FOR FURTHER INFORMATION CONTACT:** Barton V. Barnhart, Regional Manager, Rocky Mountain Region, Western Area Power Administration, 5555 East Crossroads Boulevard, Loveland, CO 80538–8986, email: [LAPtransadj@wapa.gov](mailto:LAPtransadj@wapa.gov), or Sheila D. Cook, Rates Manager, Rocky Mountain Region, Western Area Power Administration, (970) 685–9562, email: [scook@wapa.gov](mailto:scook@wapa.gov).

**SUPPLEMENTARY INFORMATION:** On March 9, 2017, FERC confirmed and approved Loveland Area Projects (LAP) transmission and the LAP, Western Area Colorado Missouri Balancing Authority (WACM), and the Colorado River Storage Project (CRSP) ancillary services formula rates under Rate Schedules L–NT1 (network), L–FPT1 (firm point-to-point), L–NFPT1 (non-firm point-to-point), L–UU1 (unreserved use), L–AS1 (scheduling and dispatch), L–AS2 (reactive supply and voltage control (VAR) support), L–AS3 (regulation), L–AS4 (energy imbalance), L–AS5 (spinning reserves), L–AS6 (supplemental reserves), L–AS7 (transmission losses), L–AS9 (generator imbalance), and L–M1 (sales of surplus

products) under Rate Order No. WAPA–174 on a final basis through September 30, 2021.<sup>1</sup> Under Rate Order No.

WAPA–179, Rate Schedule L–M1 was superseded by Rate Schedule L–M2.<sup>2</sup> On December 29, 2020, WAPA's Administrator approved rates for short-term sales for RMR to use under the WEIS Market, which superseded the previously approved Rate Schedules L–AS4 (energy imbalance), L–AS7 (transmission losses), and L–AS9 (generator imbalance) and which created a new Rate Schedule, L–NFJDT (joint dispatch transmission), for the 8-month period of February 1, 2021, through September 30, 2021.<sup>3</sup>

WAPA published a **Federal Register** notice (Proposed FRN) on April 21, 2021 (86 FR 20688), proposing to convert the rates for short-term sales for RMR to use under the WEIS Market to new long-term formula rates for use October 1, 2021, through September 30, 2024. RMR proposed that no changes be made to the existing formula rates under the rates for short-term sales under Rate Schedules L–NFJDT (joint dispatch transmission), L–AS4 (energy imbalance), L–AS7 (balancing authority real power losses), and L–AS9 (generator imbalance). The Proposed FRN also initiated a 30-day public consultation and comment period.

Under a concurrent but separate rate adjustment process for this same 3-year period, October 1, 2021, through September 30, 2024, WAPA, with Rate Order No. WAPA–196, is extending the existing LAP transmission and the LAP, WACM, and CRSP ancillary services formula rates under Rate Schedules L–NT1 (network), L–FPT1 (firm point-to-point), L–NFPT1 (non-firm point-to-point), L–UU1, (unreserved use), L–AS1 (scheduling and dispatch), L–AS2 (VAR support), L–AS3 (regulation), L–AS5 (spinning reserves), and L–AS6 (supplemental reserves).

The rate schedules herein contain formula-based charges and/or fees which will be calculated to incorporate the most recent financial, load, and non-participant entity information, as applicable. The financial data included in the RMR Administrative Fee will be updated on an annual basis, effective October 1 of each fiscal year. The Net Energy Load (NEL) and non-participant

entity information, which is used to determine the allocation of the administrative costs, will also be updated on an annual basis, effective October 1 of each fiscal year; however, additional updates are possible throughout the fiscal year as changes to the embedded load and non-participating entities within the WACM Balancing Authority Area (BAA) occur (*i.e.*, non-participating entities leave the BAA or become Market Participants (MP); existing MPs become non-participants; new non-participating entities enter BAA; etc.). When changes such as these occur, the proportional shares of NEL and the minimum fee amounts used to allocate the administrative costs must be updated to ensure appropriate distribution and cost recovery. These updates could result in changes to the monthly amounts the non-participating entities are charged.

### Legal Authority

By Delegation Order No. 00–037.00B, effective November 19, 2016, the Secretary of Energy delegated: (1) The authority to develop power and transmission rates to the WAPA Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve on a final basis, remand, or disapprove such rates to FERC. By Delegation Order No. S1–DEL–S4–2021, effective February 25, 2021, the Acting Secretary of Energy also delegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Under Secretary for Science (and Energy). By Redelegation Order No. S4–DEL–OE1–2021, effective March 25, 2021, the Acting Under Secretary for Science (and Energy) redelegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Assistant Secretary for Electricity. By Redelegation Order No. 00–002.10–05, effective July 8, 2020, the Assistant Secretary for Electricity further delegated the authority to confirm, approve, and place such rates into effect on an interim basis to WAPA's Administrator. This redelegation order, despite predating the February 2021 and March 2021 delegations, remains valid. This rate action is issued under Redelegation Order No. 00–002.10–05 and Department of Energy (DOE) procedures for public participation in rate adjustments as set forth at 10 CFR part 903.<sup>4</sup>

<sup>1</sup> Order Confirming and Approving Rate Schedules on a Final Basis, FERC Docket Nos. EF16–5–000 and EF16–5–001, 158 FERC ¶ 62,181 (2017).

<sup>2</sup> Order Confirming and Approving Rate Schedules on a Final Basis, FERC Docket No. EF18–3–000, 163 FERC ¶ 62,115 (2018).

<sup>3</sup> See “Short-Term Rate Memo—RMR WEIS—Approved December 29, 2020” at <https://www.wapa.gov/regions/RM/rates/Pages/2021-Rates-for-Short-Term-Sales.aspx>.

<sup>4</sup> 50 FR 37835 (Sept. 18, 1985) and 84 FR 5347 (Feb. 21, 2019).

Following review of RMR's proposal, I hereby confirm, approve, and place Rate Order No. WAPA-197 into effect on an interim basis. This provides formula rates for transmission, energy and generator imbalance, and losses for use under the WEIS Market. WAPA will submit Rate Order No. WAPA-197 to FERC for confirmation and approval on a final basis.

## Department of Energy

### Administrator, Western Area Power Administration

*In the Matter of:* Western Area Power Administration, Rocky Mountain Region, Rate Adjustment for Transmission, Energy and Generator Imbalance, and Losses Formula Rates.  
Rate Order No. WAPA-197

### Order Confirming, Approving, and Placing Formula Rates for the Loveland Area Projects and the Western Area Colorado Missouri Balancing Authority Into Effect on an Interim Basis

The formula rates in Rate Order No. WAPA-197 are established following section 302 of the Department of Energy (DOE) Organization Act (42 U.S.C. 7152).<sup>5</sup>

By Delegation Order No. 00-037.00B, effective November 19, 2016, the Secretary of Energy delegated: (1) The authority to develop power and transmission rates to the Western Area Power Administration's (WAPA) Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve on a final basis, remand, or disapprove such rates to the Federal Energy Regulatory Commission (FERC). By Delegation Order No. S1-DEL-S4-2021, effective February 25, 2021, the Acting Secretary of Energy also delegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Under Secretary for Science (and Energy). By Redelegation Order No. S4-DEL-OE1-2021, effective March 25, 2021, the Acting Under Secretary for Science (and Energy) redelegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Assistant Secretary for Electricity. By Redelegation Order No. 00-002.10-

05, effective July 8, 2020, the Assistant Secretary for Electricity further delegated the authority to confirm, approve, and place such rates into effect on an interim basis to WAPA's Administrator. This redelegation order, despite predating the February 2021 and March 2021 delegations, remains valid. This rate action is issued under the Redelegation Order No. 00-002.10-05 and DOE procedures for public participation in rate adjustments as set forth at 10 CFR part 903.<sup>6</sup>

### Acronyms, Terms, and Definitions

As used in this Rate Order, the following acronyms, terms, and definitions apply:

*\$/MWh:* Dollars per megawatt hour.

*AGE:* Administrative & General Expense. Costs not directly chargeable to a specific project including administrative personnel, general supervision, indirect materials and supplies, etc.

*Balancing Authority:* The responsible entity within the Western Energy Imbalance System Market that integrates resource plans ahead of time, maintains load-interchange-generation balance within a Balancing Authority Area (BAA), and supports interconnection frequency in real time.

*Balancing Authority Area:* The collection of generation, transmission, and loads within the metered boundaries of the Balancing Authority. The Balancing Authority maintains load-resource balance within this area.

*Business Practices:* Documents that provide requirements for services and clarifies various aspects of the services offered.

*Customer Rate Brochure:* Document that further explains the rate methodologies under Rate Order No. WAPA-197.

*FY:* Fiscal year; October 1 to September 30.

*Market Participant:* An entity that generates, transmits, distributes, purchases, or sells electricity in the WEIS Market pursuant to the WEIS Tariff.

*Net Energy for Load (NEL):* Net generation on or interconnected to the WEIS Market Footprint (as defined in the WEIS Tariff) plus energy received from others less energy delivered to others through interchange and is measured in MWh/yr. It includes system losses but excludes energy required for storage of energy at energy storage facilities.

*NEPA:* National Environmental Policy Act of 1969, as amended.

*Non-Participating Entity:* An entity with load and/or resources embedded within the WACM Balancing Authority Area who chooses not to contract directly with Southwest Power Pool (SPP).

*OATI:* Open Access Transmission International, Inc. The software company that operates the Open Access Same-Time Information System (OASIS).

*Provisional Formula Rates:* Formula rates confirmed, approved, and placed into effect on an interim basis by the Secretary or his/her designee.

*Western Energy Imbalance Service:* The service defined in Schedule 1 of the WEIS Tariff for the WEIS Market Footprint.

*WEIS Market:* The market for imbalance energy administered by SPP in the Western Interconnection.

### Effective Date

The Provisional Formula Rate Schedules L-NFJDT (joint dispatch transmission), L-AS4 (energy imbalance), L-AS7 (balancing authority real power losses), and L-AS9 (generator imbalance) will take effect on the first day of the first full billing period beginning on or after October 1, 2021, and will remain in effect through September 30, 2024, pending approval by FERC on a final basis or until superseded.

### Public Notice and Comment

The Rocky Mountain Region (RMR) followed the Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions, 10 CFR part 903, in developing these formula rates. RMR took the following steps to involve interested parties in the rate process:

1. On April 21, 2021, a **Federal Register** notice (86 FR 20688) (Proposal FRN) announced the proposed formula rates and launched a 30-day public consultation and comment period.

2. On April 21, 2021, RMR notified transmission and ancillary service customers and interested parties of the proposed rates and provided a copy of the published Proposal FRN.

3. RMR provided a website that contains all dates, customer letters, presentations, FRNs, Customer Rate Brochure, and other information about this rate process. The website is located at: <https://www.wapa.gov/regions/RM/rates/Pages/2021-Long-Term-Rates---WEIS-Market.aspx>.

4. During the 30-day consultation and comment period, which ended on May 21, 2021, RMR received one written comment. The comments and RMR's responses are addressed below. All

<sup>5</sup> This Act transferred to, and vested in, the Secretary of Energy the power marketing functions of the Secretary of the Department of the Interior and the Bureau of Reclamation (Reclamation) under the Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), as amended and supplemented by subsequent laws, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)) and section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s); and other acts that specifically apply to the projects involved.

<sup>6</sup> 50 FR 37835 (Sept. 18, 1985) and 84 FR 5347 (Feb. 21, 2019).

comments have been considered in preparation of this Rate Order.

*Written comments were received from the following organization:*

Colorado River Energy Distributors Association, Arizona.

### Transmission, Energy and Generator Imbalance, and Losses

RMR converted its rates for short-term sales for use under the WEIS Market to new long-term formula rates. No changes were made to the existing rates. The formula rates are each designed to recover the annual costs of providing the services, as applicable, on an annual basis effective October 1 of each fiscal year.

For further details and explanations regarding these services, please see the final version of the Customer Rate Brochure, dated August 2021, located at: <https://www.wapa.gov/regions/RM/rates/Pages/2021-Long-Term-Rates-WEIS-Market.aspx>.

### Comments

The comments expressed have been paraphrased, where appropriate, without compromising the meaning of the comments.

*A. Comment:* A customer asked why environmental compliance is uncertain for some of the proposal FRNs but WAPA has determined a Categorical Exclusion for others.

*Response:* When new/revised rates are being implemented, WAPA's Environmental Office reviews the reasons for the rate action and decides whether the rate action can be excluded from NEPA review. Typically, WAPA's rate actions are excluded. In the case of rate extensions, that determination was previously made when the rate was originally implemented.

*B. Comment:* A customer asked several questions related to RMR's prior process to implement rates for short-term sales.

*Response:* RMR appreciates the customer's feedback; however, these questions are outside the scope of this rate process. For information pertaining to the rates for short-term sales, please refer to LAP's Rates for Short-Term Sales web page located at <https://www.wapa.gov/regions/RM/rates/Pages/2021-Rates-for-Short-Term-Sales.aspx> with questions and answers provided in December 2020.

*C. Comment:* A customer asked for verification that no changes are being made to the losses rate.

*Response:* Yes, that is an accurate statement; no changes are being made to the existing formula rate for losses.

*D. Comment:* A customer provided editorial suggestions for the Customer Rate Brochure.

*Response:* RMR appreciates the customer's feedback. RMR has made edits to the final version of the Customer Rate Brochure to coincide with the suggestions.

*E. Comment:* A customer thanked RMR for providing additional administrative fee information.

*Response:* RMR appreciates the customer's feedback.

*F. Comment:* A customer recommended that various program managers track actual labor costs, versus using high-level assessments, when developing the RMR Administrative Fee.

*Response:* RMR appreciates the recommendation to track actual labor costs, but due to the nature of the work being performed by various functional groups, RMR has determined that it is not practical to ask staff to track their time to this level of detail. As such, RMR is using the higher-level assessments to determine the RMR Administrative Fee. Other administrative fees and charges RMR calculates are treated in a similar manner.

*G. Comment:* A customer requested the budget codes associated with each program area identified in the Customer Rate Brochure Table 2.

*Response:* The budget codes for each division are identified in Table 2 as follows:

1. Reliability—RRCPPM—WMA
2. Operations Engineering—PSOSM
3. Operations Support—PSOSM
4. Settlements—BILLM
5. Information Technology—SCDSM
6. Transmission Services—TSVSM
7. Rates—MRKTM
8. Contracts—MRKTM
9. Finance—AAGEA

*H. Comment:* A customer asked on what basis the one-time and annual assessments of OATI, building, and other miscellaneous costs, are determined.

*Response:* The OATI software costs are based on the contracted option year, which correlates with the fiscal year used for the RMR Administrative Fee update. RMR only includes the cost of the specific OATI software modules that pertain to WEIS for the non-participating entities.

The building and other miscellaneous costs included in the annual RMR Administrative Fee correlate with the most current fiscal year data available. These costs are allocated to this fee based on the percentage of full-time equivalent (FTE) hours allocated to the RMR Administrative Fee.

*I. Comment:* A customer asked if Administrative and General Expense (AGE) was applied to the RMR Administrative Fee.

*Response:* Yes, AGE is included in the RMR Administrative Fee.

*J. Comment:* A customer asked why there could be "out-of-cycle" updates to the RMR Administrative Fee.

*Response:* The Net Energy Load (NEL) and non-participant entity information, which is used to determine the allocation of the administrative costs, will be updated on an annual basis, effective October 1 of each fiscal year; however, additional (out-of-cycle) updates are possible throughout the fiscal year as changes to the embedded load and non-participating entities within the WACM BAA occur (*i.e.*, non-participating entities leave the BAA or become Market Participants (MP); existing MPs become non-participants; new non-participating entities enter WACM BAA; etc.). When changes such as these occur, the proportional shares of NEL and the minimum fee amounts used to allocate the administrative costs must be updated to ensure appropriate distribution and cost recovery. These updates could result in changes to the monthly amounts the non-participating entities are charged.

*K. Comment:* A customer asked for clarification of when the RMR Administrative Fee is updated and asked if text could be added indicating periodicity of updates to the RMR Administrative Fee.

*Response:* As explained in the response to Comment J regarding out-of-cycle changes, when changes such as these occur, the proportional shares of NEL and the minimum fee amounts used to allocate the administrative costs must be updated to ensure proper distribution and cost recovery. These updates could result in changes to the monthly amounts the non-participating entities are charged. RMR has added these details to the Customer Rate Brochure. Please see the final version of the Customer Rate Brochure, dated August 2021, located at: <https://www.wapa.gov/regions/RM/rates/Pages/2021-Long-Term-Rates---WEIS-Market.aspx>.

### Certification of Rates

I certified that the Provisional Formula Rates for RMR under Rate Schedules L—NFJDT (joint dispatch transmission), L—AS4 (energy imbalance), L—AS7 (balancing authority real power losses), and L—AS9 (generator imbalance) are the lowest possible rates, consistent with sound business principles. The Provisional Formula Rates were developed

following administrative policies and applicable laws.

#### Availability of Information

Information about this rate adjustment, including the Customer Rate Brochure, comments, letters, memorandums, and other supporting materials that were used to develop the Provisional Formula Rates, is available for inspection and copying at the Rocky Mountain Regional Office, 5555 East Crossroads Boulevard, Loveland, CO. Many of these documents are also available on WAPA's website at <https://www.wapa.gov/regions/RM/rates/Pages/2021-Long-Term-Rates---WEIS-Market.aspx>.

#### Ratemaking Procedure Requirements

##### Environmental Compliance

WAPA has determined that this action fits within the following categorical exclusions listed in appendix B to subpart D of 10 CFR 1021.410: B4.3 (Electric power marketing rate changes) and B4.4 (Power marketing services and activities). Categorically excluded projects and activities do not require preparation of either an environmental impact statement or an environmental assessment.<sup>7</sup> Specifically, WAPA has determined that this rulemaking is consistent with activities identified in part B4, Categorical Exclusions Applicable to Specific Agency Actions (see 10 CFR part 1021, appendix B to subpart D, part B4). A copy of the categorical exclusion determination is available on WAPA-RMR's website at: <https://www.wapa.gov/regions/RM/environment/Pages/CX2021.aspx>. Look for the file entitled, "2021-088 Rate Change Categorical Exclusion Determination-WAPA197-.08052021."

##### Determination Under Executive Order 12866

WAPA has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

##### Submission to the Federal Energy Regulatory Commission

The Provisional Formula Rates herein confirmed, approved, and placed into effect on an interim basis, together with supporting documents, will be submitted to FERC for confirmation and final approval.

<sup>7</sup> The determination was done in compliance with NEPA (42 U.S.C. 4321-4347); the Council on Environmental Quality Regulations for implementing NEPA (40 CFR parts 1500-1508); and DOE NEPA Implementing Procedures and Guidelines (10 CFR part 1021).

#### Order

In view of the above, and under the authority delegated to me, I hereby confirm, approve, and place into effect, on an interim basis, Rate Order No. WAPA-197. The rates will remain in effect on an interim basis until: (1) FERC confirms and approves them on a final basis; (2) subsequent rates are confirmed and approved; or (3) such rates are superseded.

#### Signing Authority

This document of the Department of Energy was signed on August 24, 2021, by Tracey A. LeBeau, Interim Administrator, Western Area Power Administration, pursuant to delegated authority from the Secretary of Energy. That document, with the original signature and date, is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on August 25, 2021.

**Treena V. Garrett,**  
*Federal Register Liaison Officer, U.S.  
Department of Energy.*

#### Rate Schedule L-NFJDT

##### SCHEDULE 8R to OATT Attachment (Supersedes Rate Schedule L-NFJDT Dated February 1, 2021, Through September 30, 2021)

##### United States Department of Energy Western Area Power Administration Rocky Mountain Region

##### Loveland Area Projects

##### Joint Dispatch Transmission Service

(Approved Under Rate Order No.  
WAPA-197)

##### Effective

The first day of the first full billing period beginning on or after October 1, 2021, and extending through September 30, 2024, or until superseded by another rate schedule, whichever occurs earlier.

##### Applicable

This rate schedule applies to the Loveland Area Projects (LAPT) as the Transmission Service Provider (TSP) when the Rocky Mountain Region is participating in the Western Energy Imbalance Service (WEIS) Market. The

Joint Dispatch Transmission Service (JDTS) Customer shall compensate the LAPT TSP for JDTS commensurate with the receipt or delivery of energy dispatched for the JDTS Customer pursuant to the WEIS Tariff under the formula rate described herein.

##### Formula Rate

Hourly delivery:  
On-Peak Hours: The on-peak charge  
\$0.00/MWh  
Off-Peak Hours: The off-peak charge  
\$0.00/MWh

#### Rate Schedule L-AS4

##### SCHEDULE 4R to OATT ATTACHMENT R

##### (Supersedes Rate Schedule L-AS4 Dated February 1, 2021, Through September 30, 2021)

##### United States Department of Energy Western Area Power Administration Rocky Mountain Region

##### Loveland Area Projects

##### Western Area Colorado Missouri Balancing Authority

##### Energy Imbalance Service

(Approved Under Rate Order No.  
WAPA-197)

##### Effective

The first day of the first full billing period beginning on or after October 1, 2021, and extending through September 30, 2024, or until superseded by another rate schedule, whichever occurs earlier.

##### Applicable

This rate schedule applies to the Western Area Colorado Missouri Balancing Authority (WACM) as the Balancing Authority Area (BAA) operator and to Loveland Area Projects (LAPT) as the Transmission Service Provider (TSP) when the Rocky Mountain Region (RMR) is participating in the Western Energy Imbalance Service (WEIS) Market and the WEIS Market is providing such ancillary service.

Within the BAA(s) in the WEIS Market Footprint, Energy Imbalance Service is provided when a difference occurs between the expected and the actual delivery of energy within such BAA(s) over a Dispatch Interval. All loads in the WEIS Market will be subject to settlement related to Energy Imbalance Service in the WEIS Market. Southwest Power Pool, Inc. (SPP), as the WEIS Market administrator, will obtain and provide this service under the WEIS Market and will calculate and bill applicable charges and credits.

As a participating balancing authority in the WEIS Market Footprint, WACM is required to register loads and resources for non-participating entities within the WACM BAA. Such entities must enter into separate agreements with WACM which will specify the terms of the Energy Imbalance Service contracted through the WEIS Market.

The LAPT TSP offers this service when the transmission service is used to serve load within the WACM BAA and the Transmission Customers must either purchase this service from the LAPT TSP or make alternative arrangements with WACM to satisfy their Energy Imbalance Service obligations.

#### *Formula Rate*

Charges shall reflect the pass-through of all applicable charges/credits associated with the WEIS Tariff assessed to RMR for embedded load in the WACM BAA of such entity that does not make adequate alternate arrangements in the WEIS Market to satisfy its Energy Imbalance Service obligation. RMR will also charge an administrative fee to cover RMR's cost of administering this service on behalf of such entities.

The WEIS charges/credits attributed to specific settlement location(s) (as defined in the WEIS Tariff) will be passed directly through to the applicable asset owners (as defined in the WEIS Tariff) at those settlement location(s). Other WEIS charges/credits, *i.e.*, WEIS Administration costs, will be allocated based on each entity's proportional share of Net Energy for Load (NEL) (or as otherwise determined by the WEIS administrator).

RMR's Administrative Fee will be allocated to the non-participating entities using the higher of either RMR's calculated minimum fee or the entity's proportional share of the non-participating entities' NEL.

#### **Rate Schedule L-AS9**

##### **SCHEDULE 9R to OATT ATTACHMENT R**

**(Supersedes Rate Schedule L-AS9 Dated February 1, 2021, Through September 30, 2021)**

**United States Department of Energy  
Western Area Power Administration  
Rocky Mountain Region**

#### **Loveland Area Projects**

**Western Area Colorado Missouri  
Balancing Authority**

#### **Generator Imbalance Service**

*(Approved Under Rate Order No. WAPA-197)*

#### *Effective*

The first day of the first full billing period beginning on or after October 1, 2021, and extending through September 30, 2024, or until superseded by another rate schedule, whichever occurs earlier.

#### *Applicable*

This rate schedule applies to the Western Area Colorado Missouri Balancing Authority (WACM) as the Balancing Authority Area (BAA) operator and to Loveland Area Projects (LAPT) as the Transmission Service Provider (TSP) when the Rocky Mountain Region (RMR) is participating in the Western Energy Imbalance Service (WEIS) Market and the WEIS Market is providing such ancillary service.

Within the BAA(s) in the WEIS Market Footprint, Generator Imbalance Service is provided when a difference occurs between the expected and the actual delivery of energy within such BAA(s) over a Dispatch Interval. All resources in the WEIS Market will be subject to settlement related to Generator Imbalance Service in the WEIS Market. Southwest Power Pool, Inc. (SPP), as the WEIS Market administrator, will obtain and provide this service under the WEIS Market and will calculate and bill applicable charges and credits.

As a participating balancing authority in the WEIS Market Footprint, WACM is required to register loads and resources for non-participating entities within the WACM BAA. Such entities must enter into separate agreements with WACM which will specify the terms of the Generator Imbalance Service contracted through the WEIS Market.

The LAPT TSP offers this service, to the extent it is physically feasible to do so from its resources or from resources available to it, when Transmission Service is used to deliver energy from a

generator located within the WACM BAA and the Transmission Customers must either purchase this service from the LAPT TSP or make alternative arrangements with WACM to satisfy their Generator Imbalance Service obligations.

#### *Formula Rate*

Charges shall reflect the pass-through of all applicable charges/credits associated with the WEIS Tariff assessed to RMR for embedded resources in the WACM BAA of such entity that does not make adequate alternate arrangements in the WEIS Market to satisfy its Generator Imbalance Service obligation. RMR will also charge an administrative fee to cover RMR's cost of administering this service on behalf of such entities.

The WEIS charges/credits attributed to specific settlement location(s) (as defined in the WEIS Tariff) will be passed directly through to the applicable asset owners (as defined in the WEIS Tariff) at those settlement location(s).

RMR's Administrative Fee will be allocated using the higher of either RMR's calculated minimum fee or the entity's proportional share of the non-participating entities' Net Energy for Load (NEL).

#### **Rate Schedule L-AS7**

**(Supersedes Rate Schedule L-AS7 Dated February 1, 2021, Through September 30, 2021)**

**United States Department of Energy  
Western Area Power Administration  
Rocky Mountain Region**

**Western Area Colorado Missouri  
Balancing Authority**

#### **Balancing Authority Real Power Losses Service**

*(Approved Under Rate Order No. WAPA-197)*

#### *Effective*

The first day of the first full billing period beginning on or after October 1, 2021, and extending through September 30, 2024, or until superseded by another rate schedule, whichever occurs earlier.

#### *Applicable*

This rate schedule applies to the Western Area Colorado Missouri Balancing Authority (WACM) as the Balancing Authority Area (BAA) operator when the Rocky Mountain Region is participating in the Western Energy Imbalance Service (WEIS) Market. Balancing Authority (BA) Real Power Losses Service is needed to account for the energy loss of the transmission systems within the BAA;



to which the BAA operator must account for and be compensated where applicable. BA Real Power Losses are applicable for all real-time and prescheduled transactions on transmission facilities inside the WACM BAA.

In accordance with WACM's Business Practices, the BA Real Power Losses obligation falls (1) to load inside the WACM BAA, (2) to the last Transmission Service Provider (TSP) inside the WACM BAA listed on the applicable import, export, or wheeled-through point-to-point transmission service schedule, or (3) to the TSP which any dynamically transferred load and generation is connected to. This prevents duplicate assessment of the real power losses for schedules which involve more than one TSP inside the WACM BAA.

#### Formula Rate

WACM's BA Real Power Loss Factor Percentage is posted in WACM's "Ancillary Services and Losses" Business Practices which is posted on the Loveland Area Projects Transmission (LAPT) Open Access Same-Time Information System website.

Entities with load in the WACM BAA are required to submit balanced load forecasts and actual meter data with real power losses included.

Financial settlement for applicable point-to-point transactions and for load and generation which have been dynamically transferred out of WACM BAA into another BAA, as detailed in WACM's "Ancillary Services and Losses" Business Practices, will be calculated using WACM's then current BA Real Power Loss Factor Percentage and a charge assessed based on the WEIS Market's hourly locational marginal price (LMP) for the LAP settlement location.

[FR Doc. 2021-18650 Filed 8-30-21; 8:45 am]

BILLING CODE 6450-01-P

## DEPARTMENT OF ENERGY

### Western Area Power Administration

#### Loveland Area Projects, Western Area Colorado Missouri Balancing Authority, and Colorado River Storage Project—Rate Order No. WAPA-196

**AGENCY:** Western Area Power Administration, DOE.

**ACTION:** Notice of rate order extending transmission and ancillary services formula rates.

**SUMMARY:** The extension of the existing Loveland Area Projects (LAP) transmission and LAP, Western Area

Colorado Missouri Balancing Authority (WACM), and Colorado River Storage Project (CRSP) ancillary services formula rates has been confirmed, approved, and placed into effect on an interim basis. The existing formula rates under Rate Schedules L-NT1 (network), L-FPT1 (firm point-to-point), L-NFPT1 (non-firm point-to-point), L-UU1, (unreserved use), L-AS1 (scheduling and dispatch), L-AS2 (reactive supply and voltage control (VAR) support), L-AS3 (regulation), L-AS5 (spinning reserves), and L-AS6 (supplemental reserves) are set to expire on September 30, 2021. This rate extension makes no changes to the existing formula rates and extends them through September 30, 2024.

**DATES:** The extended formula rates under Rate Schedules L-NT1 (network), L-FPT1 (firm point-to-point), L-NFPT1 (non-firm point-to-point), L-UU1 (unreserved use), L-AS1 (scheduling and dispatch), L-AS2 (VAR support), L-AS3 (regulation), L-AS5 (spinning reserves), and L-AS6 (supplemental reserves) will be placed into effect on an interim basis on October 1, 2021.

#### FOR FURTHER INFORMATION CONTACT:

Barton V. Barnhart, Regional Manager, Rocky Mountain Region, Western Area Power Administration, 5555 East Crossroads Boulevard, Loveland, CO 80538-8986, email: [LAPtransadj@wapa.gov](mailto:LAPtransadj@wapa.gov), or Sheila D. Cook, Rates Manager, Rocky Mountain Region, Western Area Power Administration, telephone 970-685-9562, email: [scook@wapa.gov](mailto:scook@wapa.gov).

**SUPPLEMENTARY INFORMATION:** WAPA published a **Federal Register** notice on April 21, 2021 (86 FR 20689), proposing to extend the existing formula rates under Rate Schedules L-NT1 (network), L-FPT1 (firm point-to-point), L-NFPT1 (non-firm point-to-point), L-UU1, (unreserved use), L-AS1 (scheduling and dispatch), L-AS2 (VAR support), L-AS3 (regulation), L-AS5 (spinning reserves), and L-AS6 (supplemental reserves) through September 30, 2024. The Proposed FRN also initiated a 30-day public consultation and comment period. Under a concurrent but separate rate adjustment process for this same 3-year period, October 1, 2021, through September 30, 2024, WAPA, with Rate Order No. WAPA-197, is converting the formula rates for short-term sales for RMR to use under the Western Energy Imbalance Service Market to long-term formula rates.

#### Legal Authority

By Delegation Order No. 00-037.00B, effective November 19, 2016, the Secretary of Energy delegated: (1) The

authority to develop power and transmission rates to the Western Area Power Administration's (WAPA) Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve on a final basis, remand, or disapprove such rates to the Federal Energy Regulatory Commission (FERC). By Delegation Order No. S1-DEL-S4-2021, effective February 25, 2021, the Acting Secretary of Energy also delegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Under Secretary for Science (and Energy). By Redelegation Order No. S4-DEL-OE1-2021, effective March 25, 2021, the Acting Under Secretary for Science (and Energy) redelegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Assistant Secretary for Electricity. By Redelegation Order No. 00-002.10-05, effective July 8, 2020, the Assistant Secretary for Electricity further delegated the authority to confirm, approve, and place such rates into effect on an interim basis to WAPA's Administrator. This redelegation order, despite predating the February 2021 and March 2021 delegations, remains valid. This extension is issued under Redelegation Order No. 00-002.10-05 and Department of Energy (DOE) rate extension procedures as set forth at 10 CFR 903.23(a).<sup>1</sup>

Following review of RMR's proposal, I hereby confirm, approve, and place Rate Order No. WAPA-196 into effect on an interim basis. This extends, without adjustment, the existing Rate Schedules L-NT1 (network), L-FPT1 (firm point-to-point), L-NFPT1 (non-firm point-to-point), L-UU1 (unreserved use), L-AS1 (scheduling and dispatch), L-AS2 (VAR support), L-AS3 (regulation), L-AS5 (spinning reserves), and L-AS6 (supplemental reserves) through September 30, 2024. WAPA will submit Rate Order No. WAPA-196 and the extended rate schedules to FERC for confirmation and approval on a final basis.

#### Department of Energy Administrator, Western Area Power Administration

In the Matter of: Western Area Power Administration Extension for the Rocky Mountain Region Transmission and Ancillary Services Formula Rates, Rate Order No. WAPA-196.

ORDER CONFIRMING, APPROVING, AND PLACING FORMULA RATES FOR THE LOVELAND AREA PROJECTS,

<sup>1</sup> 50 FR 37835 (Sept. 18, 1985) and 84 FR 5347 (Feb. 21, 2019).



WESTERN AREA COLORADO MISSOURI BALANCING AUTHORITY, AND THE COLORADO RIVER STORAGE PROJECT INTO EFFECT ON AN INTERIM BASIS

The formula rates in Rate Order No. WAPA-196 are established following section 302 of the Department of Energy (DOE) Organization Act (42 U.S.C. 7152).<sup>2</sup>

By Delegation Order No. 00-037.00B, effective November 19, 2016, the Secretary of Energy delegated: (1) The authority to develop power and transmission rates to the Western Area Power Administration's (WAPA) Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve on a final basis, remand, or disapprove such rates to the Federal Energy Regulatory Commission (FERC). By Delegation Order No. S1-DEL-S4-2021, effective February 25, 2021, the Acting Secretary of Energy also delegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Under Secretary for Science (and Energy). By Redelegation Order No. S4-DEL-OE1-2021, effective March 25, 2021, the Acting Under Secretary for Science (and Energy) redelegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Assistant Secretary for Electricity. By Redelegation Order No. 00-002.10-05, effective July 8, 2020, the Assistant Secretary for Electricity further delegated the authority to confirm, approve, and place such rates into effect on an interim basis to WAPA's Administrator. This redelegation order, despite predating the February 2021 and March 2021 delegations, remains valid. This extension is issued under Redelegation Order No. 00-002.10-05 and DOE rate extension procedures as set forth at 10 CFR 903.23(a).<sup>3</sup>

### Background

On March 9, 2017, FERC approved and confirmed Loveland Area Projects (LAP) transmission and LAP, Western Area Colorado Missouri Balancing Authority (WACM), and Colorado River

Storage Project (CRSP) ancillary services formula rates under Rate Schedules L-NT1 (network), L-FPT1 (firm point-to-point), L-NFPT1 (non-firm point-to-point), L-UU1 (unreserved use), L-AS1 (scheduling and dispatch), L-AS2 (reactive supply and voltage control (VAR) support), L-AS3 (regulation), L-AS4 (energy imbalance), L-AS5 (spinning reserves), L-AS6 (supplemental reserves), L-AS7 (transmission losses), L-AS9 (generation imbalance), and L-M1 (sales of surplus products) under Rate Order No. WAPA-174 on a final basis for a 5-year period through September 30, 2021.<sup>4</sup> Under Rate Order No. WAPA-179, Rate Schedule L-M1 was superseded by Rate Schedule L-M2.<sup>5</sup> On December 29, 2020, WAPA's Administrator approved rates for short-term sales for RMR to use under the Western Energy Imbalance Service Market, which superseded rate schedules L-AS4 (energy imbalance), L-AS7 (transmission losses), and L-AS9 (generator imbalance) and which created a new Rate Schedule, L-NFJDT (joint dispatch transmission).<sup>6</sup>

The remaining existing rates, addressed herein, continue to provide adequate revenue to recover annual expenses, including interest expense, and repay capital investments within allowable time periods. This ensures repayment within the cost recovery criteria as set forth in DOE Order RA 6120.2.

### Discussion

In accordance with 10 CFR 903.23(a), WAPA filed a notice in the **Federal Register** on April 21, 2021, proposing to extend, without adjustment, Rate Schedules L-NT1 (network), L-FPT1 (firm point-to-point), L-NFPT1 (non-firm point-to-point), L-UU1, (unreserved use), L-AS1 (scheduling and dispatch), L-AS2 (VAR support), L-AS3 (regulation), L-AS5 (spinning reserves), and L-AS6 (supplemental reserves) under Rate Order No. WAPA-196.<sup>7</sup> WAPA determined it was not necessary to hold public information or public comment forums on the proposed formula rate extension, but provided a 30-day consultation and comment period to give the public an opportunity to comment on the

proposed extension. The consultation and comment period ended on May 21, 2021, and WAPA received no comments on the proposed formula rate extension.

### Ratemaking Procedure Requirements

#### *Environmental Compliance*

WAPA previously determined that this action fits within the following categorical exclusions listed in appendix B to subpart D of 10 CFR part 1021.410: B4.3 (Electric power marketing rate changes) and B4.4 (Power marketing services and activities). Categorically excluded projects and activities do not require preparation of either an environmental impact statement or an environmental assessment.<sup>8</sup> Specifically, WAPA has determined that this rulemaking is consistent with activities identified in part B4, Categorical Exclusions Applicable to Specific Agency Actions (see 10 CFR part 1021, appendix B to subpart D, part B4). A copy of the categorical exclusion determination is available on WAPA's website at: <https://www.wapa.gov/regions/RM/environment/Pages/CX2016.aspx>. Look for file entitled, "2016-077 Prop Formula Rate Adjust for Transmission Ancillary Services and Sales of Surplus Prods 031016."

#### *Determination Under Executive Order 12866*

WAPA has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

#### *Submission to the Federal Energy Regulatory Commission*

The Provisional Formula Rates herein confirmed, approved, and placed into effect on an interim basis, together with supporting documents, will be submitted to FERC for confirmation and final approval.

### Order

In view of the above and under the authority delegated to me, I hereby confirm, approve, and place into effect on an interim basis, Rate Order No. WAPA-196, which extends the existing LAP transmission and LAP, WACM, and CRSP ancillary services formula rates under Rate Schedules L-NT1 (network), L-FPT1 (firm point-to-point), L-NFPT1 (non-firm point-to-point), L-UU1

<sup>2</sup> This Act transferred to, and vested in, the Secretary of Energy the power marketing functions of the Secretary of the Department of the Interior and the Bureau of Reclamation (Reclamation) under the Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), as amended and supplemented by subsequent laws, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)) and section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s); and other acts that specifically apply to the projects involved.

<sup>3</sup> 50 FR 37835 (Sept. 18, 1985) and 84 FR 5347 (Feb. 21, 2019).

<sup>4</sup> Order Confirming and Approving Rate Schedules on a Final Basis, FERC Docket Nos. EF16-5-000 and ER16-5-001, 158 FERC ¶ 62,181 (2017).

<sup>5</sup> Order Confirming and Approving Rate Schedules on a Final Basis, FERC Docket No. EF18-3-000, 163 FERC ¶ 62,115 (2018).

<sup>6</sup> See "Short-Term Rate Memo—RMR WEIS—Approved December 29, 2020" at <https://www.wapa.gov/regions/RM/rates/Pages/2021-Rates-for-Short-Term-Sales.aspx>.

<sup>7</sup> 86 FR 20689 (Apr. 21, 2021).

<sup>8</sup> The determination was done in compliance with the National Environmental Policy Act (NEPA) of 1969, as amended, 42 U.S.C. 4321-4347; the Council on Environmental Quality Regulations for implementing NEPA (40 CFR parts 1500-1508); and DOE NEPA Implementing Procedures and Guidelines (10 CFR part 1021).

(unreserved use), L-AS1 (scheduling and dispatch), L-AS2 (VAR support), L-AS3 (regulation), L-AS5 (spinning reserves), and L-AS6 (supplemental reserves) through September 30, 2024. The rates will remain in effect on an interim basis until: (1) FERC confirms and approves this extension on a final basis; (2) subsequent rates are confirmed and approved; or (3) such rates are superseded.

**Signing Authority**

This document of the Department of Energy was signed on August 23, 2021, by Tracey A. LeBeau, Interim Administrator, Western Area Power Administration, pursuant to delegated authority from the Secretary of Energy. That document, with the original signature and date, is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of

Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on August 25, 2021.

**Treena V. Garrett,**  
Federal Register Liaison Officer, U.S.  
Department of Energy.

**Rate Schedule L-NT1**

**ATTACHMENT H to OATT**

**(Supersedes Rate Schedule L-NT1 dated October 1, 2011, through September 30, 2016)**

**United States Department of Energy  
Western Area Power Administration**

**Rocky Mountain Region Loveland Area  
Projects**

**Network Integration Transmission  
Service**

*(Approved Under Rate Order No.  
WAPA-174)*

*Effective*

The first day of the first full billing period beginning on or after October 1,

2016, and extending through September 30, 2021, or until superseded by another rate schedule, whichever occurs earlier. [Note: This rate schedule was extended by Rate Order No. WAPA-196 through September 30, 2024.]

*Applicable*

The Transmission Customer will compensate the Loveland Area Projects Transmission Service Provider (LAPT) each month for Network Integration Transmission Service under the applicable Network Integration Transmission Service Agreement and the Annual Transmission Revenue Requirement described herein.

*Formula Rate*

$$\text{Monthly Charge} = \frac{\text{Annual Transmission Revenue Requirement (\$)}}{12} \times \text{Network Service Customer's Load Ratio Share}$$

A calculated Annual Transmission Revenue Requirement will go into effect every October 1 based on updated financial projections and the true-up of previous projections.

The Annual Transmission Revenue Requirement will be posted on the LAPT Open Access Same-Time Information System website.

**Rate Schedule L-FPT1**

**SCHEDULE 7 to OATT**

**(Supersedes Rate Schedule L-FPT1 dated October 1, 2011, through September 30, 2016)**

**United States Department of Energy  
Western Area Power Administration**

**Rocky Mountain Region Loveland Area  
Projects**

**Long-Term Firm and Short-Term Firm  
Point-to-Point Transmission Service**

*(Approved Under Rate Order No.  
WAPA-174)*

*Effective*

The first day of the first full billing period beginning on or after October 1,

2016, and extending through September 30, 2021, or until superseded by another rate schedule, whichever occurs earlier. [Note: This rate schedule was extended by Rate Order No. WAPA-196 through September 30, 2024.]

*Applicable*

The Transmission Customer shall compensate the Loveland Area Projects Transmission Service Provider (LAPT) each month for reserved capacity under the applicable Firm Point-to-Point Transmission Service Agreement and the formula rate described herein.

*Formula Rate*

$$\text{Firm Point-to-Point Transmission Service Formula Rate} = \frac{\text{Annual Transmission Revenue Requirement (\$)}}{\text{Firm Transmission Capacity Reservations (kW) plus Network Integration Transmission Service Capacity (kW)}}$$

A calculated charge will go into effect every October 1 based on the formula above, updated financial and load projections, and the true-up of previous

projections. The annual charge will be posted on the LAPT Open Access Same-Time Information System (OASIS) website.

*Discounts*

Three principal requirements apply to discounts for transmission service as

follows: (1) Any offer of a discount made by LAPT must be announced to all eligible customers solely by posting on the LAPT OASIS website; (2) any customer-initiated requests for discounts, including requests for use by LAP Marketing, must occur solely by posting on the LAPT OASIS website; and (3) once a discount is negotiated, details must be immediately posted on the LAPT OASIS website. For any discount agreed upon for service on a path, from Point(s) of Receipt to Point(s) of Delivery, LAPT must offer the same discounted transmission service rate for the same time period to all eligible customers on all unconstrained transmission paths that go to the same point(s) of delivery on the transmission system.

#### Rate Schedule L-NFPT1

##### SCHEDULE 8 to OATT

**(Supersedes Rate Schedule L-NFPT1 dated October 1, 2011, through September 30, 2016)**

**United States Department of Energy  
Western Power Area Administration**

**Rocky Mountain Region Loveland Area  
Projects**

**Non-Firm Point-to-Point Transmission  
Service**

*(Approved Under Rate Order No.  
WAPA-174)*

*Effective*

The first day of the first full billing period beginning on or after October 1,

2016, and extending through September 30, 2021, or until superseded by another rate schedule, whichever occurs earlier. [Note: This rate schedule was extended by Rate Order No. WAPA-196 through September 30, 2024.]

*Applicable*

The Transmission Customer will compensate the Loveland Area Projects Transmission Service Provider (LAPT) for Non-Firm Point-to-Point Transmission Service under the applicable Non-Firm Point-to-Point Transmission Service Agreement and the formula rate described herein.

*Formula Rate*

$$\begin{array}{ccc} \text{Maximum Non-Firm Point-to-Point} & = & \text{Firm Point-to-Point} \\ \text{Transmission Service Formula Rate} & & \text{Transmission Service Formula Rate} \end{array}$$

A calculated charge will go into effect every October 1 based on the formula above, updated financial and load projections, and the true-up of previous projections. The annual charge will be posted on the LAPT Open Access Same-Time Information System (OASIS) website.

#### *Discounts*

Three principal requirements apply to discounts for transmission service as follows: (1) Any offer of a discount made by LAPT must be announced to all eligible customers solely by posting on the LAPT OASIS website; (2) any customer-initiated requests for discounts, including requests for use by LAP Marketing, must occur solely by posting on the LAPT OASIS; and (3) once a discount is negotiated, details must be immediately posted on the LAPT OASIS. For any discount agreed upon for service on a path, from Point(s) of Receipt to Point(s) of Delivery, LAPT must offer the same discounted transmission service charge for the same time period to all eligible customers on all unconstrained transmission paths that go to the same point(s) of delivery on the transmission system.

#### Rate Schedule L-UU1

##### SCHEDULE 10 to OATT

**(Supersedes Rate Schedule L-UU1 dated October 1, 2011, through September 30, 2016)**

**United States Department of Energy  
Western Area Power Administration**

**Rocky Mountain Region Loveland Area  
Projects**

**Unreserved Use Penalties**

*(Approved Under Rate Order No.  
WAPA-174)*

*Effective*

The first day of the first full billing period beginning on or after October 1, 2016, and extending through September 30, 2021, or until superseded by another rate schedule, whichever occurs earlier. [Note: This rate schedule was extended by Rate Order No. WAPA-196 through September 30, 2024.]

*Applicable*

The Transmission Customer shall compensate the Loveland Area Projects Transmission Service Provider (LAPT) each month for any unreserved use of the transmission system (Unreserved Use) under the applicable transmission service formula rates as described herein. Unreserved Use occurs when an eligible customer uses transmission service it has not reserved or a Transmission Customer uses transmission service in excess of its reserved capacity. Unreserved Use may also include a Transmission Customer's failure to curtail transmission when requested, a Network Integration

Transmission Service (Network) Customer's scheduled delivery of off-system non-designated purchases using transmission capacity reserved for designated Network resources, and a Network Customer's use of Network service or secondary service to facilitate a wholesale sale that does not serve a Network load.

*Penalty Rate*

The penalty charge for a Transmission Customer who engages in Unreserved Use is 200 percent of the Loveland Area Project's approved formula rate for Firm Point-to-Point Transmission Service assessed as follows: the Unreserved Use Penalty for a single hour of Unreserved Use is based upon the charge for daily Firm Point-to-Point Transmission Service. The Unreserved Use Penalty for more than one assessment for a given duration (e.g., daily) increases to the next longest duration (e.g., weekly). The Unreserved Use Penalty for multiple instances of Unreserved Use (e.g., more than one hour) within a day is based on the charge for daily Firm Point-to-Point Transmission Service. The Unreserved Use Penalty for multiple instances of Unreserved Use isolated to one calendar week is based on the charge for weekly Firm Point-to-Point Transmission Service. The Unreserved Use Penalty for multiple instances of Unreserved Use during more than one week in a calendar month is based on the charge for monthly Firm Point-to-Point Transmission Service.

A Transmission Customer who exceeds their reserved capacity at any point of receipt or point of delivery, or

an eligible customer who uses transmission service at a point of receipt or point of delivery it has not reserved, is required to pay for all ancillary services provided by LAPT and associated with the Unreserved Use. The Transmission Customer will pay for ancillary services based on the amount of transmission service it used and did not reserve.

**Rate Schedule L-AS1**

**Schedule 1 to OATT**

**(Supersedes Rate Schedule SP-SD4 and Rate Schedule L-AS1 Dated October 1, 2011, Through September 30, 2016)**

**United States Department of Energy  
Western Area Power Administration**

**Rocky Mountain Region**

**Colorado River Storage Project**

**Loveland Area Projects**

**Western Area Colorado Missouri  
Balancing Authority**

**Scheduling, System Control, and  
Dispatch Service**

*(Approved Under Rate Order No.  
WAPA-174)*

*Effective*

The first day of the first full billing period beginning on or after October 1,

2016, and extending through September 30, 2021, or until superseded by another rate schedule, whichever occurs earlier. [Note: This rate schedule was extended by Rate Order No. WAPA-196 through September 30, 2024.]

*Applicable*

This rate schedule applies to Colorado River Storage Project Transmission (CRCM) and Loveland Area Projects Transmission (LAPT) as Transmission Service Providers (TSPs) and to Western Area Colorado Missouri Balancing Authority (WACM) as the Control Area operator. Scheduling, System Control, and Dispatch Service is required to schedule the movement of power through, out of, within, or into WACM. This service can be provided only by the operator of the Control Area in which the transmission facilities used for transmission service are located.

The CRCM and LAPT TSPs must offer this service and the Federal Transmission Customers must purchase this service from the CRCM and LAPT TSPs. WACM provides this service on behalf of all TSPs within WACM and those TSPs must purchase this service from WACM.

The charge will be applied to all schedules, except those for the delivery of transmission losses to WACM.

WACM will accept any number of scheduling changes over the course of the day without any additional charge. Unless other arrangements are made with WACM, the charge will be allocated equally among all TSPs, both Federal and non-Federal, listed on the schedule who are inside WACM. The Federal transmission segments of the schedule are exempt from invoicing, as costs for these segments are included in the CRCM and LAPT transmission service rates.

*Formula Rate*

$$\begin{array}{l} \text{Charge} \\ \text{per} \\ \text{Schedule} \end{array} = \frac{\text{Annual Cost of Scheduling Personnel and Related Costs (\$)}}{\text{Number of Schedules per Year, excluding schedules for Delivery of Losses to WACM}}$$

The annual cost of scheduling personnel and related costs includes annual costs associated with transmission scheduling (i.e., personnel, facilities, equipment and software, as well as credits representing fees for agent services).

The number of schedules per year is the yearly total of daily tags which result in a schedule, excluding loss schedules.

A calculated charge will go into effect every October 1 based on the formula above and updated financial and schedule data. The annual charge will be posted on the CRCM and LAPT Open Access Same-Time Information System websites.

**Rate Schedule L-AS2**

**Schedule 2 to OATT**

**(Supersedes Rate Schedule SP-RS4 and Rate Schedule L-AS2 Dated October 1, 2011, Through September 30, 2016)**

**United States Department of Energy  
Western Area Power Administration**

**Rocky Mountain Region**

**Colorado River Storage Project**

**Loveland Area Projects**

**Western Area Colorado Missouri  
Balancing Authority**

**Reactive Supply and Voltage Control  
From Generation or Other Sources  
Service**

*(Approved Under Rate Order No.  
WAPA-174)*

*Effective*

The first day of the first full billing period beginning on or after October 1, 2016, and extending through September

30, 2021, or until superseded by another rate schedule, whichever occurs first. [Note: This rate schedule was extended by Rate Order No. WAPA-196 through September 30, 2024.]

*Applicable*

This rate schedule applies to Colorado River Storage Project (CRCM) and Loveland Area Projects (LAPT) as Transmission Service Providers (TSPs) and to Western Area Colorado Missouri Balancing Authority (WACM) as the Control Area operator. Reactive Supply and Voltage Control from Generation or Other Sources Services (VAR Support Service) is required to maintain transmission voltages on the TSPs transmission facilities within acceptable limits, using generation facilities and non-generation resources capable of providing this service to produce or absorb reactive power. Thus, VAR Support Service must be provided for each transaction on the transmission facilities within the Control Area. The

amount of VAR Support Service supplied to the transmission transactions will be based on the VAR Support Service necessary to maintain transmission voltages within limits generally accepted in the region and consistently adhered to by WACM.

The CRCM and LAPT TSPs must offer this service for each transaction and the

Federal Transmission Customers must purchase this service from the CRCM and LAPT TSPs, unless the Transmission Customer has generating resources capable of providing VARs directly connected to a Federal transmission facility owned and operated by CRCM and/or LAPT and has executed a contract stipulating all

the provisions of their self-supply. If WACM provides VAR Support Service on behalf of any non-Federal TSP, VAR Support Service will be assessed based on either the TSP's reserved capacity or the tagged megawatt usage of the TSP's Transmission Customers.

*Formula Rate*

$$\text{VAR Support Service Formula Rate} = \frac{\text{Annual Revenue Requirement for VAR Support Service (\$)}}{\text{Transmission Transactions Requiring VAR Support Service (kW)}}$$

The annual revenue requirement for VAR Support Service equals the revenue requirement for Federal generation times the % of resource capacity used for VAR Support Service (1 minus power factor) plus other resources, e.g., energy and transmission costs for condensing Federal generating units minus applicable revenue credits related to WACM providing service.

The transmission transactions requiring VAR Support Service equals transmission capacity use of the Federal transmission systems; including point-to-point and network service on LAPT and CRCM transmission systems.

A calculated charge will go into effect every October 1 based on the formula above and updated financial and capacity data. The annual charge will be posted on the CRCM and LAPT Open Access Same-Time Information System websites.

**Rate Schedule L-AS3  
Schedule 3 to OATT  
(Supersedes Rate Schedule SP-FR4 and  
Rate Schedule L-AS3 Dated October 1,  
2011, Through September 30, 2016)**

**United States Department of Energy  
Western Area Power Administration**

**Rocky Mountain Region  
Colorado River Storage Project  
Loveland Area Projects**

**Western Area Colorado Missouri  
Balancing Authority**

**Regulation and Frequency Response  
Service**

*(Approved Under Rate Order No.  
WAPA-174)*

*Effective*

The first day of the first full billing period beginning on or after October 1, 2016, and extending through September 30, 2021, or until superseded by another rate schedule, whichever occurs earlier. [Note: This rate schedule was extended by Rate Order No. WAPA-196 through September 30, 2024.]

*Applicable*

This rate schedule applies to Colorado River Storage Project (CRCM) and Loveland Area Projects (LAPT) as Transmission Service Providers (TSPs) and to Western Area Colorado Missouri Balancing Authority (WACM) as the Control Area operator. Regulation and

Frequency Response Service (Regulation Service) is necessary to provide for the continuous balancing of resources, generation, and interchange with load and for maintaining scheduled interconnection frequency at sixty cycles per second (60 Hz). Regulation Service is accomplished by committing on-line generation whose output is raised or lowered, predominantly through the use of automatic generation control (AGC) equipment as necessary, to follow the moment-by-moment changes in load. All loads inside the Control Area consume regulation; therefore, WACM, by default, provides Regulation Service to all loads inside the Control Area.

The CRCM and LAPT TSPs offer this service when transmission service is used to serve load within WACM and the Federal Transmission Customers must purchase this service from the CRCM and LAPT TSPs or make alternative comparable arrangements with WACM to satisfy their regulation obligations. For the Load Serving Entities (LSEs) who are not taking transmission service from CRCM and LAPT, WACM will assess Regulation Service charges for their load and for their variable resources inside WACM.

The formula rate will be assessed to all applicable Federal Transmission Customers and to all applicable non-Federal LSEs serving load inside WACM.

*Formula Rate*

$$\begin{aligned}
 &\text{Regulation Service} = \text{Total Annual Revenue Requirement for Regulation Service (\$)} \\
 &\text{Formula Rate} = \frac{\text{Load inside WACM Requiring Regulation Service (kW)} + (\text{Installed Nameplate Capacity of Wind Generators Serving Load inside WACM} \times \text{Wind Capacity Multiplier (kW)}) + (\text{Installed Nameplate Capacity of Solar Generators Serving Load inside WACM} \times \text{Solar Capacity Multiplier (kW)})}{\text{Total Annual Revenue Requirement for Regulation Service (\$)}}
 \end{aligned}$$

The total annual revenue requirement for Regulation Service includes such costs as LAP and CRSP plant costs, purchases of regulation products, purchases of power in support of the generating units' ability to regulate, purchases of transmission for regulating units trapped geographically inside another balancing authority, purchases of transmission required to relocate energy due to regulation/load following issues, and lost on-peak sales opportunities resulting from the requirement to generate at night to permit units to have "down" regulating capability.

The total load for Regulation Service equals load inside WACM requiring Regulation Service, plus the installed nameplate capacity of wind generators serving load inside WACM times the wind capacity multiplier, plus the installed nameplate capacity of solar generators serving load inside WACM times the solar capacity multiplier.

A calculated charge will go into effect every October 1 based on the formula above and updated financial, load, and capacity multiplier data. The annual charge and multipliers will be posted on the CRCM and LAPT Open Access Same-Time Information System websites.

*Types*

There are two different applications of this Formula Rate:

1. *Load-based Assessment:* The charge is assessed on an entity's auxiliary load (total metered load less applicable Federal entitlements) and on the amount stated in any BA or transmission service agreements. The charge is also applied to the installed nameplate capacity of all variable energy resources, including wind and solar generators, serving load inside WACM multiplied by the applicable annually calculated Capacity Multiplier.

2. *Self-provision Assessment:* WACM allows entities with AGC to self-provide for all or a portion of their loads.

Entities with AGC are known as Sub-Balancing Authorities (SBA) and must meet all of the following criteria:

- a. Have a well-defined boundary, with WACM-approved revenue-quality metering, accurate as defined by the North American Electric Reliability Corporation (NERC), to include Megawatt flow data availability at 6-second or smaller intervals;
- b. Have AGC responsive unit(s);
- c. Demonstrate Regulation Service capability; and
- d. Execute a contract with WACM in which entities agree to:
  - i. Provide all requested data to WACM.
  - ii. Meet SBA error criteria as described below.

Self-provision is measured by use of the entity's 1-minute average Area Control Error (ACE) to determine the amount of self-provision. The ACE is used to calculate the Regulation Service charges every hour as follows:

- a. If the entity's 1-minute average ACE for the hour is less than or equal to 0.5 percent of its hourly average load, no Regulation Service charge is assessed for that hour.
- b. If the entity's 1-minute average ACE for the hour is greater than or equal to 1.5 percent of its hourly average load, WACM assesses Regulation Service charges to the entity's entire auxiliary load, using the hourly Load-based Assessment applied to the entity's auxiliary 12-cp load for that month.
- c. If the entity's 1-minute average ACE for the hour is greater than 0.5 percent of its hourly average load, but less than 1.5 percent of its hourly average load, WACM assesses Regulation Service charges based on linear interpolation of zero charge and full charge, using the hourly Load-based Assessment applied to the entity's auxiliary 12-cp load for that month.
- d. WACM monitors the entity's Self-provision on a regular basis. If WACM determines the entity has not been attempting to self-regulate, WACM will,

upon notification, employ the Load-based Assessment described in No. 1, above.

*Alternative Arrangements*

Exporting Variable Resource Requirement: WACM does not provide Regulation Service to variable resources inside the WACM Control Area which are not used to serve load inside the WACM Control Area. An entity that exports the output from a variable generator to another Control Area will be required to dynamically meter or dynamically schedule the resource out of the WACM Control Area to another Control Area unless arrangements, satisfactory to WACM, are made for the entity to acquire this service from a third party or self-supply (as outlined below). A variable generator is one whose output is volatile and variable due to factors beyond direct operational control and, therefore, is not dispatchable.

*Self- or Third-party supply:* WACM may allow an entity to supply some or all of its required regulation, or contract with a third party to do so. This entity must have revenue quality metering at every load and generation point, accurate as defined by NERC, to include MW flow data availability at 6-second or smaller intervals. WACM will evaluate the entity's metering, telecommunications and regulating resource, as well as the required level of regulation, and determine whether the entity qualifies to self-supply under this provision. If approved, the entity is required to enter into a separate agreement with WACM which will specify the terms of the self-supply application.

*Customer Accommodation*

For entities unwilling to take Regulation Service, self-provide as described above, or acquire the service from a third party, WACM will assist the entity in dynamically metering its loads/resources to another Control Area.

Until such time as meter configuration is accomplished, the entity will be responsible for charges assessed under the formula rate in effect.

#### Rate Schedule L-AS5

##### SCHEDULE 5 to OATT

(Supersedes Rate Schedule L-AS5 dated October 1, 2011, through September 30, 2016)

United States Department of Energy  
Western Area Power Administration  
Rocky Mountain Region Loveland Area  
Projects and Western Area Colorado  
Missouri Balancing Authority

#### Operating Reserve—Spinning Reserve Service

(Approved Under Rate Order No. WAPA-174)

##### Effective

The first day of the first full billing period beginning on or after October 1, 2016, and extending through September 30, 2021, or until superseded by another rate schedule, whichever occurs earlier. [Note: This rate schedule was extended by Rate Order No. WAPA-196 through September 30, 2024.]

##### Applicable

This rate schedule applies to Loveland Area Projects (LAPT) as the Transmission Service Provider (TSP) and to Western Area Colorado Missouri Balancing Authority (WACM) as the Control Area operator. Spinning Reserve Service is needed to serve load immediately in the event of a system contingency. Spinning Reserve Service may be provided by generating units that are on-line and loaded at less than maximum output.

The LAPT TSP must offer this service when transmission service is used to serve load within WACM and the Federal Transmission Customers must purchase this service from the LAPT TSP or make alternative comparable arrangements with WACM to satisfy their Spinning Reserve obligations. WACM may be willing to provide Spinning Reserves to other entities, providing the entities enter into separate agreements with WACM which will specify the terms of the Spinning Reserve Service.

##### Formula Rate

The LAPT TSP and WACM have no Spinning Reserves available for sale. At a customer's request, the Rocky Mountain Region will purchase Spinning Reserves and pass through the cost and any activation energy, plus a fee for administration. The customer will be responsible for providing the

transmission to deliver the Spinning Reserves purchased.

#### Rate Schedule L-AS6

##### SCHEDULE 6 to OATT

(Supersedes Rate Schedule L-AS6 dated October 1, 2011, through September 30, 2016)

United States Department of Energy  
Western Area Power Administration  
Rocky Mountain Region Loveland Area  
Projects and Western Area Colorado  
Missouri Balancing Authority

#### Operating Reserve—Supplemental Reserve Service

(Approved Under Rate Order No. WAPA-174)

##### Effective

The first day of the first full billing period beginning on or after October 1, 2016, and extending through September 30, 2021, or until superseded by another rate schedule, whichever occurs earlier. [Note: This rate schedule was extended by Rate Order No. WAPA-196 through September 30, 2024.]

##### Applicable

This rate schedule applies to the Loveland Area Projects (LAPT) as the Transmission Service Provider (TSP) and the Western Area Colorado Missouri Balancing Authority (WACM) as the Control Area operator. Supplemental Reserve Service is needed to serve load in the event of a system contingency; however, it is not available immediately to serve load but rather within a short period of time. Supplemental Reserve Service may be provided by generating units that are on-line but unloaded, by quick-start generation, or by interruptible load.

The LAPT TSP must offer this service when the transmission service is used to serve load within WACM and the Federal Transmission Customers must purchase this service from the LAPT TSP or make alternative comparable arrangements with WACM to satisfy their Supplemental Reserve obligations. WACM may be willing to provide Supplemental Reserves to other entities, providing the entities enter into separate agreements with WACM which will specify the terms of the Supplemental Reserve Service.

##### Formula Rate

The LAPT TSP and WACM have no Supplemental Reserves available for sale. At a customer's request, the Rocky Mountain Region will purchase Supplemental Reserves and pass through the cost and any activation energy, plus a fee for administration.

The customer will be responsible for providing the transmission to deliver the Supplemental Reserves purchased.

[FR Doc. 2021-18646 Filed 8-30-21; 8:45 am]

BILLING CODE 6450-01-P

#### ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2019-0274; FRL-8736-01-OCSPP]

#### Pesticide Experimental Use Permit; Receipt of Application; Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

**SUMMARY:** This notice announces EPA's receipt of an application 93167-EUP-2 from Oxitec, Ltd. requesting an amendment and extension to the experimental use permit (EUP) for the OX5034 *Aedes aegypti* mosquitoes expressing tetracycline Trans-Activator Variant (tTAV-OX5034) protein. The Agency has determined that the permit may be of regional and national significance. Therefore, because of the potential significance, EPA is seeking comments on this application.

**DATES:** Comments must be received on or before September 30, 2021.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP-2019-0274., by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001.

- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/contacts.html>.

Due to the public health concerns related to COVID-19, the EPA Docket Center (EPA/DC) and Reading Room is closed to visitors with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC services and docket access, visit <https://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:** Charles Smith, Biopesticides and

Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; main telephone number: (703) 305-7090; email address: [BPPDFRNotices@epa.gov](mailto:BPPDFRNotices@epa.gov).

#### SUPPLEMENTARY INFORMATION:

### I. General Information

#### A. Does this action apply to me?

This action is directed to the public in general. Although this action may be of particular interest to those persons who conduct or sponsor research on pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action.

#### B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through [regulations.gov](https://www.regulations.gov) or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at <http://www.epa.gov/dockets/comments.html>.

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticide(s) discussed in this document, compared to the general population.

### II. What action is the Agency taking?

Under section 5 of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), 7 U.S.C. 136c, EPA can allow manufacturers to field test pesticides under development. Manufacturers are required to obtain an EUP before testing new pesticides or new uses of pesticides if they conduct experimental field tests on 10 acres or more of land or one acre or more of water.

Pursuant to 40 CFR 172.11(a), the Agency has determined that the following EUP amendment and extension application may be of regional and national significance, and therefore is seeking public comment on the EUP application:

*Submitter:* Oxitec, Ltd., (93167-EUP-2).

*Pesticide Chemical:* OX5034 *Aedes aegypti* mosquitoes expressing tetracycline Trans-Activator Variant (tTAV-OX5034) protein.

*Summary of Request:* Oxitec Ltd. is proposing to extend testing of OX5034 *Aedes aegypti* mosquitoes expressing tTAV-OX5034 protein for 2 years in the state of Florida up to 6,240 total acres at a maximum rate of 0.000082 g active ingredient (tTAV-OX5034), equivalent to 20,000 male OX5034 mosquitoes, per acre, per week. Additionally, Oxitec Ltd is proposing to expand testing of OX5034 *Aedes aegypti* mosquitoes expressing tTAV-OX5034 protein in the state of California on up to 84,600 total acres at a maximum rate of 0.000123 g active ingredient (tTAV-OX5034), equivalent to 30,000 male OX5034 mosquitoes, per acre, per week. The proposed experiments are to evaluate the efficacy of OX5034 mosquitoes as a tool for suppression of wild *Aedes aegypti* mosquito populations. Female offspring of the OX5034 mosquitoes in the environment die before they mature into adults and therefore exposure to biting female mosquitoes is not anticipated.

EPA made its decision to grant the already issued Oxitec OX5034 Mosquito Experimental Use Permit in April 2020 after extensive evaluation of the best available science, and after seeking and addressing public input. EPA's risk assessment <https://www.regulations.gov/document/EPA-HQ-OPP-2019-0274-0359>, and response to comment document <https://www.regulations.gov/document/EPA-HQ-OPP-2019-0274-0354>, are publicly available and accessible through [regulations.gov](https://www.regulations.gov) via these links. Common questions and answers regarding the already issued EUP can be found in the "The Experimental Use Permit for the

Oxitec Genetically Engineered *Aedes aegypti* Mosquitoes" webinar available at <https://www.epa.gov/pesticides/biopesticides>.

Following the review of the application and any comments and data received in response to this solicitation, EPA will decide whether to issue or deny the EUP request, and if issued, the conditions under which it is to be conducted. Any issuance of an EUP will be announced in the **Federal Register**.

*Authority:* 7 U.S.C. 136 *et seq.*

Dated: August 25, 2021.

**Charles Smith,**

*Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.*

[FR Doc. 2021-18776 Filed 8-30-21; 8:45 am]

**BILLING CODE 6560-50-P**

### ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OAR-2021-0557; FRL-8884-01-OAR]

#### Proposed Information Collection Request; Comment Request; Part 70 State Operating Permit Program (Renewal)

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency is planning to submit an information collection request (ICR), "Part 70 State Operating Permit Program (Renewal)" (EPA ICR No. 1587.15, OMB Control No. 2060-0243) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (PRA). Before doing so, the EPA is soliciting public comments on specific aspects of the proposed information collection. This is a proposed extension of the ICR, which is currently approved through April 30, 2022. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

**DATES:** Comments must be submitted on or before November 1, 2021.

**ADDRESSES:** Submit your comments, referencing Docket ID No. EPA-HQ-OAR-2021-0557, online using <https://www.regulations.gov> (our preferred method), by email to [a-and-r-docket@epa.gov](mailto:a-and-r-docket@epa.gov), or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

The EPA is temporarily suspending its Docket Center and Reading Room for



public visitors, with limited exceptions, to reduce the risk of transmitting COVID-19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. The EPA encourages the public to submit comments via <https://www.regulations.gov/> as there may be a delay in processing mail and faxes. Hand deliveries or couriers will be received by scheduled appointment only. For further information and updates on EPA Docket Center services, please visit us online at <https://www.epa.gov/dockets>.

The EPA continues to carefully and continuously monitor information from the Center of Disease Control, local area health departments, and our federal partners so that the Agency can respond rapidly as conditions change regarding COVID-19.

**FOR FURTHER INFORMATION CONTACT:**

Corey Sugerik, Air Quality Policy Division, Office of Air Quality Planning and Standards, C504-05, Environmental Protection Agency, Research Triangle Park, NC; telephone number: (919) 541-3223; fax number: (919) 541-5509; email address: [sugerik.corey@epa.gov](mailto:sugerik.corey@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at <https://www.regulations.gov> or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Avenue NW, Washington, DC. The telephone number for the Docket Center is (202) 566-1744. The EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information or other information whose disclosure is restricted by statute. For additional information about EPA's public docket, visit <http://www.epa.gov/dockets>.

Pursuant to section 3506(c)(2)(A) of the PRA, the EPA is soliciting comments and information to enable it to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden

of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. The EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, the EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. **Abstract:** Title V of the Clean Air Act (CAA or Act) requires states to develop and implement a program for issuing operating permits to all sources that fall under any Act definition of "major" and certain other non-major sources that are subject to federal air quality regulations. The Act further requires the EPA to develop regulations that establish the minimum requirements for those state operating permits programs and to oversee implementation of the state programs. The EPA regulations setting forth requirements for the state operating permit program are found at 40 CFR part 70. The part 70 program is designed to be implemented primarily by state, local and tribal permitting authorities in all areas where they have jurisdiction.

In order to receive an operating permit for a major or other source subject to the permitting program, the applicant must conduct the necessary research, perform the appropriate analyses and prepare the permit application with documentation to demonstrate that its facility meets all applicable statutory and regulatory requirements. Specific activities and requirements are listed and described in the Supporting Statement for the 40 CFR part 70 ICR.

Under 40 CFR part 70, state, local and tribal permitting authorities review permit applications, provide for public review of proposed permits, issue permits based on consideration of all technical factors and public input and review information submittals required of sources during the term of the permit. Also, under 40 CFR part 70, the EPA reviews certain actions of the permitting authorities and provides oversight of the programs to ensure that they are being adequately implemented and enforced. Consequently, information prepared and submitted by sources is essential for sources to receive permits, and for federal, state, local and tribal permitting authorities to adequately review the permit applications and thereby

properly administer and manage the program.

Information that is collected is handled according to the EPA's policies set forth in title 40, chapter 1, part 2, subpart B—Confidentiality of Business Information (see 40 CFR part 2). See also section 114(c) of the Act.

*Form Numbers:* None.

*Respondents/affected entities:* Industrial plants (sources); state, local and tribal permitting authorities.

*Respondent's obligation to respond:* mandatory (see 40 CFR part 70).

*Estimated number of respondents:* 14,201 sources and 117 state, local and tribal permitting authorities.

*Frequency of response:* On occasion.

*Total estimated burden:* 4,756,110 hours (per year). Burden is defined at 5 CFR 1320.03(b).

*Total estimated cost:* \$325,175,507 (per year). There are no annualized capital or operation & maintenance costs.

*Changes in Estimates:* There is an increase of 17,185 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This increase is due to updated estimates of the number of sources and permits subject to the part 70 program, rather than any change in federal mandates.

Dated: August 26, 2021.

**Scott Mathias,**

Director, Air Quality Policy Division, OAQPS.

[FR Doc. 2021-18762 Filed 8-30-21; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**[EPA-HQ-OPPT-2018-0436; FRL-8806-01-OCSP]**

**Di-isononyl Phthalate (DINP); Final Scope of the Risk Evaluation To Be Conducted Under the Toxic Substances Control Act (TSCA); Notice of Availability**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Toxic Substances Control Act (TSCA) and implementing regulations, EPA is announcing the availability of the final scope of the risk evaluation to be conducted for di-isononyl phthalate (DINP) (1,2-benzene-dicarboxylic acid, 1,2-diisononyl ester, and 1,2-benzenedicarboxylic acid, di-C8-10-branched alkyl esters, C9-rich; Chemical Abstracts Service Registry Number (CASRN) 28553-12-0 and CASRN

68515-48-0), a category of chemical substances for which EPA received a manufacturer request for risk evaluation. The scope document includes the conditions of use, hazards, exposures, and the potentially exposed or susceptible subpopulations that EPA plans to consider in conducting the risk evaluation for this category of chemical substances.

**ADDRESSES:** The docket, identified by docket identification (ID) number EPA-HQ-OPPT-2018-0436, is available online at <http://www.regulations.gov> or in-person at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC.

Due to the public health concerns related to COVID-19, the EPA Docket Center (EPA/DC) and Reading Room is closed to visitors with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC services and docket access, visit <https://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:** For technical information contact: Collin Beachum, Existing Chemical Risk Assessment Division (Mailcode E205-02), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 109 T.W. Alexander Drive, RTP, NC 27711; telephone number: (919) 541-7554; email address: [beachum.collin@epa.gov](mailto:beachum.collin@epa.gov).

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554-1404; email address: [TSCA-Hotline@epa.gov](mailto:TSCA-Hotline@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

###### A. Does this action apply to me?

This action is directed to the public in general and may be of interest to entities that manufacture (including import) a chemical substance regulated under TSCA (e.g., entities identified under North American Industrial Classification System (NAICS) codes 325 and 324110). The action may also be of interest to chemical processors, distributors in commerce, and users; non-governmental organizations in the environmental and public health sectors; state and local government agencies; and members of the public. Since other entities may also be interested, the Agency has not

attempted to describe all the specific entities and corresponding NAICS codes for entities that may be interested in or affected by this action.

###### B. What is the Agency's authority for taking this action?

The final scope document is issued pursuant to TSCA section 6(b)(4)(D) and EPA's implementing regulations at 40 CFR 702.41(c)(8).

###### C. What action is the Agency taking?

EPA is publishing the final scope of the risk evaluation for DINP under TSCA. Through the risk evaluation process, EPA will determine whether the category of chemical substances presents an unreasonable risk of injury to health or the environment under the conditions of use, as determined by the Administrator, in accordance with TSCA section 6(b)(4).

##### II. Background

TSCA allows chemical manufacturers to request an EPA-conducted risk evaluation of a chemical substance under 40 CFR 702.37. On May 24, 2019, EPA received a manufacturer request for a risk evaluation of DINP (Ref. 1). On December 2, 2019, the Agency granted the request and subsequently initiated the scoping process for a risk evaluation for this category of chemical substances on January 2, 2020. Pursuant to 40 CFR 702.41(c)(7), EPA announced the availability of and sought public comment on the draft scope document for the risk evaluation to be conducted for DINP under TSCA (85 FR 76072, November 27, 2020) (FRL-10017-15) (Ref. 2).

The purpose of risk evaluation is to determine whether a chemical substance, or group of chemical substances, presents an unreasonable risk to health or the environment, under the conditions of use, including an unreasonable risk to a relevant potentially exposed or susceptible subpopulation (15 U.S.C. 2605(b)(4)(A)). As part of this process, EPA must evaluate both hazards and exposures for the conditions of use; describe whether aggregate or sentinel exposures were considered and the basis for consideration; not consider costs or other nonrisk factors; take into account where relevant, likely duration, intensity, frequency, and number of exposures and describe the weight of the scientific evidence for hazards and exposures (15 U.S.C. 2605(b)(4)(F)). This process will culminate in a determination of whether or not the category of chemical substances presents an unreasonable risk of injury to health or the environment under the

conditions of use (15 U.S.C. 2605(b)(4)(A); 40 CFR 702.47).

##### III. Information and Comments Received on the Draft Scope

In the **Federal Register** of November 27, 2020 (Ref. 2), EPA announced the availability of the draft scope document for the risk evaluation to be conducted for DINP under TSCA and invited public comments on EPA's draft scope document, including additional data or information relevant to the category of chemical substances or that otherwise could be useful to the Agency in finalizing the scope of the risk evaluation. To the extent that comments provided information on conditions of use, as well as other elements of the draft scope document. Those comments and other submitted information (e.g., relevant studies and assessments) were used to inform revisions to the draft scope document and may be considered in subsequent phases of the risk evaluation process.

EPA received six unique submissions for DINP, including comments from potentially affected businesses or trade associations, environmental and public health advocacy groups (some submissions were signed by more than one group), a group of state attorneys general, and one anonymous comment.

Comments addressed the overall approach to the risk evaluation process (e.g., collection, consideration, and systematic review of relevant information), the specific elements of the scope document (e.g., hazard, exposure, and potentially exposed or susceptible subpopulations), information specific to the chemical substances (e.g., relevant studies, assessments, and conditions of use), and topics beyond the draft scope document phase of the process (e.g., risk management). EPA considered those comments, as applicable and appropriate, in developing the final scope document. Concurrently with the publication of the final scope document, EPA is publishing a response to comments document that contains a comprehensive summary of and response to public comments received on the DINP draft scope document. The comprehensive response to comments document is available in the docket EPA-HQ-OPPT-2019-0436 (Ref. 3).

##### IV. References

The following is a listing of the documents that are specifically referenced in this **Federal Register** notice. The docket for this action includes these documents and other information considered by EPA, including documents that are referenced

within the documents that are included in the docket. For assistance in locating these referenced documents, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

1. EPA. Di-isononyl Phthalate (DINP) (1,2-Benzene-dicarboxylic acid, 1,2-diisononyl ester); Manufacturer Request for Risk Evaluation Under the Toxic Substances Control Act (TSCA); Notice of Availability and Request for Comments. **Federal Register**. (84 FR 42912, August 19, 2019) (FRL-9998-25).

2. EPA. Di-isononyl phthalate (DINP); Draft Scope of the Risk Evaluation To Be Conducted Under the Toxic Substances Control Act (TSCA); Notice of Availability and Request for Comments. **Federal Register**. (85 FR 76072, November 27, 2020) (FRL-10017-15).

3. EPA. EPA Response to Public Comments Received on the Draft Scopes of the Risk Evaluations Under the Toxic Substances Control Act (TSCA) for: Di-isodecyl Phthalate (DIDP) (1,2-Benzenedicarboxylic acid, 1,2-diisodecyl ester and 1,2-Benzenedicarboxylic acid, di-C9-11-branched alkyl esters, C10-rich) CASRN 26761-40-0 and 68515-49-1 and Di-isononyl Phthalate (DINP) (1,2-Benzene-dicarboxylic acid, 1,2-diisononyl ester, and 1,2-Benzenedicarboxylic acid, di-C8-10-branched alkyl esters, C9-rich) CASRNs 28553-12-0 and 68515-48-0. (August 2021).

*Authority:* 15 U.S.C. 2601 *et seq.*

**Michael S. Regan,**  
Administrator.

[FR Doc. 2021-18772 Filed 8-30-21; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPPT-2018-0435; FRL-8807-01-OCSP]

### Di-isodecyl Phthalate (DIDP); Final Scope of the Risk Evaluation To Be Conducted Under the Toxic Substances Control Act (TSCA); Notice of Availability

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Toxic Substances Control Act (TSCA) and implementing regulations, EPA is announcing the availability of the final scope of the risk evaluation to be conducted for di-isodecyl phthalate (DIDP) (1,2-benzenedicarboxylic acid, 1,2-diisodecyl ester and 1,2-benzenedicarboxylic acid, di-C9-11-

branched alkyl esters, C10-rich; Chemical Abstracts Service Registry Number (CASRN) 26761-40-0 and CASRN 68515-49-1), a category of chemical substances for which EPA received a manufacturer request for risk evaluation. The scope document includes the conditions of use, hazards, exposures, and the potentially exposed or susceptible subpopulations that EPA plans to consider in conducting the risk evaluation for this category of chemical substances.

**ADDRESSES:** The docket, identified by docket identification (ID) number EPA-HQ-OPPT-2018-0435, is available online at <http://www.regulations.gov> or in-person at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC.

Due to the public health concerns related to COVID-19, the EPA Docket Center (EPA/DC) and Reading Room is closed to visitors with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC services and docket access, visit <https://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:** For technical information contact: Collin Beachum, Existing Chemical Risk Assessment Division (Mailcode E205-02), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 109 T.W. Alexander Drive, RTP, NC 27711; telephone number: (919) 541-7554; email address: [beachum.collin@epa.gov](mailto:beachum.collin@epa.gov).

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554-1404; email address: [TSCA-Hotline@epa.gov](mailto:TSCA-Hotline@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

###### A. Does this action apply to me?

This action is directed to the public in general and may be of interest to entities that manufacture (including import) a chemical substance regulated under TSCA (*e.g.*, entities identified under North American Industrial Classification System (NAICS) codes 325 and 324110). The action may also be of interest to chemical processors, distributors in commerce, and users; non-governmental organizations in the environmental and public health sectors; state and local government

agencies; and members of the public. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities and corresponding NAICS codes for entities that may be interested in or affected by this action.

###### B. What is the Agency's authority for taking this action?

The final scope document is issued pursuant to TSCA section 6(b)(4)(D) and EPA's implementing regulations at 40 CFR 702.41(c)(8).

###### C. What action is the Agency taking?

EPA is publishing the final scope of the risk evaluation for DIDP under TSCA. Through the risk evaluation process, EPA will determine whether the category of chemical substances presents an unreasonable risk of injury to health or the environment under the conditions of use, as determined by the Administrator, in accordance with TSCA section 6(b)(4).

## II. Background

TSCA allows chemical manufacturers to request an EPA-conducted risk evaluation of a chemical substance under 40 CFR 702.37. On May 24, 2019, EPA received a manufacturer request for a risk evaluation of DIDP (Ref. 1). On December 2, 2019, the Agency granted the request and subsequently initiated the scoping process for a risk evaluation for this category of chemical substances on January 2, 2020. Pursuant to 40 CFR 702.41(c)(7), EPA announced the availability of and sought public comment on the draft scope document for the risk evaluation to be conducted for DIDP under TSCA (85 FR 76077, November 27, 2020) (FRL-10017-14) (Ref. 2).

The purpose of risk evaluation is to determine whether a chemical substance, or group of chemical substances, presents an unreasonable risk to health or the environment, under the conditions of use, including an unreasonable risk to a relevant potentially exposed or susceptible subpopulation (15 U.S.C. 2605(b)(4)(A)). As part of this process, EPA must evaluate both hazards and exposures for the conditions of use; describe whether aggregate or sentinel exposures were considered and the basis for consideration; not consider costs or other nonrisk factors; take into account where relevant, likely duration, intensity, frequency, and number of exposures and describe the weight of the scientific evidence for hazards and exposures (15 U.S.C. 2605(b)(4)(F)). This process will culminate in a determination of whether or not the

category of chemical substances presents an unreasonable risk of injury to health or the environment under the conditions of use (15 U.S.C. 2605(b)(4)(A); 40 CFR 702.47).

### III. Information and Comments Received

In the **Federal Register** of November 27, 2020 (Ref. 2), EPA announced the availability of the draft scope document for the risk evaluation to be conducted for DIDP under TSCA and invited public comments on EPA's draft scope document, including additional data or information relevant to the category of chemical substances or that otherwise could be useful to the Agency in finalizing the scope of the risk evaluation. To the extent that comments provided information on conditions of use, as well as other elements of the draft scope document, those comments and other submitted information (*e.g.*, relevant studies and assessments) were used to inform revisions to the draft scope document and may be considered in subsequent phases of the risk evaluation process.

EPA received five unique submissions for DIDP, including comments from potentially affected businesses or trade associations, environmental and public health advocacy groups (some submissions were signed by more than one group), and a group of state attorneys general.

Comments addressed the overall approach to the risk evaluation process (*e.g.*, collection, consideration, and systematic review of relevant information), the specific elements of the scope document (*e.g.*, hazard, exposure, and potentially exposed or susceptible subpopulations), information specific to the chemical substances (*e.g.*, relevant studies, assessments, and conditions of use), and topics beyond the draft scope document phase of the process (*e.g.*, risk management). EPA considered those comments, as applicable and appropriate, in developing the final scope document. Concurrently with the publication of the final scope document, EPA is publishing a response to comments document that contains a comprehensive summary of and response to public comments received on the DIDP draft scope document. The comprehensive response to comments document is available in the docket EPA-HQ-OPPT-2019-0435 (Ref. 3).

### IV. References

The following is a listing of the documents that are specifically referenced in this **Federal Register** notice. The docket for this action

includes these documents and other information considered by EPA, including documents that are referenced within the documents that are included in the docket. For assistance in locating these referenced documents, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

1. EPA. Di-isodecyl Phthalate (DIDP) (1,2-Benzene-dicarboxylic acid, 1,2-diisodecyl ester); Manufacturer Request for Risk Evaluation Under the Toxic Substances Control Act (TSCA); Notice of Availability and Request for Comments. **Federal Register**. (84 FR 42914, August 19, 2019) (FRL-9998-26).

2. EPA. Di-isodecyl Phthalate (DIDP); Draft Scope of the Risk Evaluation to be Conducted Under the Toxic Substances Control Act (TSCA); Notice of Availability and Request for Comments. **Federal Register**. (85 FR 76077, November 27, 2020) (FRL-10017-14).

3. EPA. EPA Response to Public Comments Received on the Draft Scopes of the Risk Evaluations Under the Toxic Substances Control Act (TSCA) for: Diisodecyl Phthalate (DIDP) (1,2-Benzenedicarboxylic acid, 1,2-diisodecyl ester and 1,2-Benzenedicarboxylic acid, di-C9-11-branched alkyl esters, C10-rich) CASRN 26761-40-0 and 68515-49-1 and Diisononyl Phthalate (DINP) (1,2-Benzene-dicarboxylic acid, 1,2-diisononyl ester, and 1,2-Benzenedicarboxylic acid, di-C8-10-branched alkyl esters, C9-rich) CASRNs 28553-12-0 and 68515-48-0. (August 2021).

*Authority:* 15 U.S.C. 2601 *et seq.*

**Michael S. Regan,**  
*Administrator.*

[FR Doc. 2021-18773 Filed 8-30-21; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPPT-2003-0004; FRL-8829-01-OCSPJ]

### Access to Confidential Business Information by Eastern Research Group and PG Environmental

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** EPA has authorized its contractors, Eastern Research Group (ERG) of Lexington, MA, to access information which has been submitted to EPA under all sections of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be Confidential Business Information (CBI).

**DATES:** Access to the confidential data will occur no sooner than September 7, 2021.

**FOR FURTHER INFORMATION CONTACT:** For technical information contact: Colby Lintner, Project Management and Operations Division (7407M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; telephone number: (202) 564-8182; fax number: (202) 564-8251; email address: [lintner.colby@epa.gov](mailto:lintner.colby@epa.gov).

*For general information contact:* The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554-1404; email address: [TSCA-Hotline@epa.gov](mailto:TSCA-Hotline@epa.gov).

### SUPPLEMENTARY INFORMATION:

#### I. General Information

##### A. Does this Action apply to me?

This action is directed to the public in general. This action may, however, be of interest to all who manufacture, process, or distribute industrial chemicals. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

##### B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA-HQ-OPPT-2003-0004 is available at <http://www.regulations.gov> or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPPT Docket is (202) 566-0280.

Due to the public health concerns related to COVID-19, the EPA Docket Center (EPA/DC) and Reading Room is closed to visitors with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC services and docket access, visit <https://www.epa.gov/dockets>.

#### II. What action is the Agency taking?

Under EPA contract number 68HERD20A0002/68HERH21F0196, contractor ERG of 110 Hartwell Ave, Suite 1, Lexington, MA will assist the

Office of Pollution Prevention and Toxics (OPPT) support for Engineering Assessments for the Exposure Evaluation and Assessment of Chemical Substances & Related Regulatory Actions.

In accordance with 40 CFR 2.306(j), EPA has determined that under EPA contract number 68HERD20A0002/68HERH21F0196, ERG will require access to CBI submitted to EPA under all sections of TSCA to perform successfully the duties specified under the contract. ERG personnel will be given access to information submitted to EPA under all sections of TSCA. Some of the information may be claimed or determined to be CBI.

EPA is issuing this notice to inform all submitters of information under all sections of TSCA that EPA may provide ERG access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract will take place at EPA Headquarters and ERG's site located at 14555 Avion Parkway, Suite 200, Chantilly, VA, in accordance with EPA's *TSCA CBI Protection Manual*.

Access to TSCA data, including CBI, will continue until April 21, 2022. If the contract is extended, this access will also continue for the duration of the extended contract without further notice.

ERG personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

*Authority:* 15 U.S.C. 2601 *et seq.*

Dated: August 25, 2021.

**Vickie Richardson,**

*Acting Director, Project Management and Operations Division, Office of Pollution Prevention and Toxics.*

[FR Doc. 2021-18778 Filed 8-30-21; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-8924-01-R2]

### Proposed CERCLA Cost Recovery Settlement for the Apple Valley Shopping Center Superfund Site, Town of LaGrange, Dutchess County, New York

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice; request for public comment.

**SUMMARY:** In accordance with the Comprehensive Environmental Response, Compensation, and Liability

Act of 1980, as amended ("CERCLA"), notice is hereby given by the U.S. Environmental Protection Agency (EPA), Region 2, of a proposed cost recovery settlement agreement (Agreement) pursuant to CERCLA, with Apple Valley Corp. and the Estate of James A. Klein (Settling Parties) for the Apple Valley Shopping Center Superfund Site (Site), LaGrange, Dutchess County, New York.

**DATES:** Comments must be submitted on or before September 30, 2021.

**ADDRESSES:** Comments can be sent via email to Sharon Kivowitz at [kivowitz.sharon@epa.gov](mailto:kivowitz.sharon@epa.gov). Comments should reference the Apple Valley Shopping Center Superfund Site Settlement Agreement for Recovery of Response Costs, Index No. CERCLA-02-2021-2025. The proposed settlement is available for public inspection at this weblink: <https://semspub.epa.gov/src/document/02/625084>.

**FOR FURTHER INFORMATION CONTACT:** Sharon Kivowitz, Attorney, Office of Regional Counsel, U.S. Environmental Protection Agency, Email: [kivowitz.sharon@epa.gov](mailto:kivowitz.sharon@epa.gov) Telephone: 212-637-3183.

**SUPPLEMENTARY INFORMATION:** Under the Agreement, the Settling Parties will pay \$75,000 to the EPA Hazardous Substance Superfund in reimbursement of EPA's Past Response Costs paid at or in connection with the Site. The Agreement includes a covenant by EPA not to sue or to take administrative action against the Settling Parties pursuant to Section 107(a) of CERCLA, 42 U.S.C. 9607(a), to recover such Past Response Costs. For thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the Agreement. EPA will consider all comments received and may modify or withdraw its consent to the Agreement if comments received disclose facts or considerations that indicate that the proposed Agreement is inappropriate, improper, or inadequate. EPA's response to any comments received will be available for public inspection at EPA Region 2, 290 Broadway, New York, New York 10007-1866.

**Pasquale Evangelista,**

*Director, Superfund & Emergency Management Division, U.S. Environmental Protection Agency, Region 2.*

[FR Doc. 2021-18701 Filed 8-30-21; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2021-0080; FRL-8795-04-OCSPP]

### Pesticide Product Registration; Receipt of Applications for New Uses—August 2021

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** EPA has received applications to register new uses for pesticide products containing currently registered active ingredients. Pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is hereby providing notice of receipt and opportunity to comment on these applications.

**DATES:** Comments must be received on or before September 30, 2021.

**ADDRESSES:** Submit your comments, identified by the docket identification (ID) number and the File Symbol of the EPA registration number of interest as shown in the body of this document, through the Federal eRulemaking Portal at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <https://www.epa.gov/dockets/about-epa-dockets>.

Due to the public health concerns related to COVID-19, the EPA Docket Center (EPA/DC) and Reading Room is closed to visitors with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC services and docket access, visit <https://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:** Marietta Echeverria, Registration Division (7505P), main telephone number: (703) 305-7090, email address: [RDFRNotices@epa.gov](mailto:RDFRNotices@epa.gov), or, Anita Pease, Antimicrobials Division (AD) (7510P), main telephone number: (703) 305-7090; email address: [ADFRNotices@epa.gov](mailto:ADFRNotices@epa.gov). The mailing address for each contact person is: Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001. As part of the mailing address, include the contact person's name, division, and mail code.

The division to contact is listed at the end of each application summary.

#### SUPPLEMENTARY INFORMATION:

### I. General Information

#### A. Does this Action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).

#### B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through [regulations.gov](https://www.epa.gov/regulations.gov) or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at <https://www.epa.gov/dockets/commenting-epa-dockets>.

### II. Registration Applications

EPA has received applications to register new uses for pesticide products containing currently registered active ingredients. Pursuant to the provisions of FIFRA section 3(c)(4) (7 U.S.C. 136a(c)(4)), EPA is hereby providing notice of receipt and opportunity to comment on these applications. Notice of receipt of these applications does not imply a decision by the Agency on these applications.

#### Notice of Receipt—New Uses

1. *EPA Registration Number:* 100–1635. *Docket ID number:* EPA–HQ–OPP–2021–0400. *Applicant:* Syngenta

Crop Protection, LLC, P.O. Box 18300, Greensboro, NC 27419. *Active ingredient:* Picarbutrazox ((1,1-dimethylethylN-[6-[[[(Z)-[1-methyl-1H-tetrazol-5-yl]phenylmethylene]amino]oxy]methyl]-2-pyridinyl]carbamate). *Product type:* Fungicide. *Proposed use:* Seed treatment use on Barley, Bean, Brassica head and stem vegetables crop group 5–16, Buckwheat, Bulb vegetables crop group 3–07, Cotton, Cucurbit vegetables crop group 9, Fruiting vegetables crop group 8–10, Herb group 25, Leafy vegetables (except spinach) crop group 4–16, Leaves of root and tuber vegetables crop group 2, Legume vegetables crop group 6, Oat, Pea, Pearl millet, Proso millet, Rapeseed subgroup 20A, Root and tuber vegetables (except potato) crop group 1, Rye, Sorghum, Spice group 26, Spinach, Stalk, stem and leaf petiole vegetable group crop group 22, Teosinte, Triticale, and Wheat. *Contact:* RD.

2. *EPA File Symbol:* 100–RTNN. *Docket ID number:* EPA–HQ–OPP–2021–0400. *Applicant:* Syngenta Crop Protection, LLC, P.O. Box 18300, Greensboro, NC 27419. *Active ingredient:* Picarbutrazox ((1,1-dimethylethylN-[6-[[[(Z)-[1-methyl-1H-tetrazol-5-yl]phenylmethylene]amino]oxy]methyl]-2-pyridinyl]carbamate). *Product type:* Fungicide. *Proposed use:* Seed treatment use on Dried shelled pea and bean crop subgroup 6C. *Contact:* RD.

3. *EPA Registration Numbers:* 228–143 and 70596–1. *Docket ID number:* EPA–HQ–OPP–2020–0691. *Applicant:* Nufarm Americas, Inc. 4020 Aerial Center Pkwy., Suite 101 Morrisville, NC 27560. *Product name:* MCPA–4 Amine and MCPA (Technical Acid). *Active ingredient:* MCPA. *Product type:* Herbicide. *Proposed use:* Clover, forage and clover, hay. *Contact:* RD.

4. *EPA Registration Number:* 264–678. *Docket ID number:* EPA–HQ–OPP–2020–0347. *Applicant:* The Interregional Research Project #4 (IR-4), Rutgers, The State University of New Jersey, 500 College Road East, Suite 201W, Princeton, NJ 08540. *Active ingredient:* Propamocarb, propyl N-[3-(dimethylamino)propyl]carbamate. *Product type:* Fungicide. *Proposed use:* Vegetable, brassica, head and stem, group 5–16. *Contact:* RD.

5. *EPA Registration Number:* 7969–367. *Docket ID number:* EPA–HQ–OPP–2021–0481. *Applicant:* BASF Corporation, 26 Davis Drive, PO Box 13528, Research Triangle Park, NC 27709. *Active ingredient:* alpha-cypermethrin ((S)- $\alpha$ -cyano-3-phenoxybenzyl (1R,3R)-3-(2,2-dichlorovinyl)-2,2-

dimethylcyclopropanecarboxylate and (R)- $\alpha$ -cyano-3-phenoxybenzyl (1S,3S)-3-(2,2-dichlorovinyl)-2,2-dimethylcyclopropanecarboxylate. *Product type:* Insecticide. *Proposed use:* Insecticide net covering stored food products (cocoa, dried fruit, nuts, beans, grain, coffee), processed and milled food products and finished food products stored in commercial and industrial buildings, transportation equipment (buses, boats, ships, trains, trucks and planes—cargo areas only), utilities and warehouses. *Contact:* RD.

6. *EPA Registration Number:* 7969–445; 7969–446; 7969–448. *Docket ID number:* EPA–HQ–OPP–2020–0498. *Applicant:* BASF Corporation, 26 Davis Drive, Research Triangle Park, NC 27709–3528. *Active ingredient:* Glufosinate-ammonium. *Product type:* Herbicide Manufacturing Use Product; Herbicide End Use Product. *Proposed use:* Avocado; bushberry subgroup 13–07B; cottonseed subgroup 20C; fig; fig, dried; fruit, small, vine climbing, except fuzzy kiwifruit, subgroup 13–07F; hop, dried cones; melon subgroup 9A; pepper/eggplant 8–10B; rapeseed subgroup 20A; squash/cucumber subgroup 9B; tomato, paste; tomato subgroup 8–10A; tropical and subtropical, small fruit, edible peel, subgroup 23A and vegetable, tuberous and corm, subgroup 1C. *Contact:* RD.

7. *EPA Registration Number:* 8033–137. *Docket ID number:* EPA–HQ–OPP–2021–0400. *Applicant:* Nippon Soda Co., Ltd., c/o Nisso America, Inc., 379 Thornall Street, 5th Floor, Edison, NJ 08837. *Active ingredient:* Picarbutrazox ((1,1-dimethylethylN-[6-[[[(Z)-[1-methyl-1H-tetrazol-5-yl]phenylmethylene]amino]oxy]methyl]-2-pyridinyl]carbamate). *Product type:* Fungicide. *Proposed use:* Seed treatment use on Barley, Bean, Brassica head and stem vegetables crop group 5–16, Buckwheat, Bulb vegetables crop group 3–07, Cotton, Cucurbit vegetables crop group 9, Fruiting vegetables crop group 8–10, Herb group 25, Leafy vegetables (except spinach) crop group 4–16, Leaves of root and tuber vegetables crop group 2, Legume vegetables (except soybean) crop group 6, Oat, Pea, Pearl millet, Proso millet, Rapeseed subgroup 20A, Root and tuber vegetables (except potato) crop group 1, Rye, Sorghum, Spice group 26, Spinach, Stalk, stem and leaf petiole vegetable group crop group 22, Teosinte, Triticale, and Wheat. *Contact:* RD.

8. *EPA Registration Numbers:* 11678–57 and 66222–35. (EPA–HQ–OPP–2021–0153). *Applicant:* Makhteshim Agan of North America, Inc. (d/b/a ADAMA), 3120 Highwoods Boulevard, Suite 100, Raleigh, NC 27604. *Active*

*Ingredient:* Novaluron. *Product type:* Insecticide. *Proposed Uses:* Individual crops of Proposed Crop Subgroup 6–19A: Edible podded bean legume vegetable subgroup including Asparagus bean, edible podded, Catjang bean, edible podded, Chinese longbean, edible podded, Cowpea, edible podded, French bean, edible podded, Garden bean, edible podded, Goa bean, edible podded, Green bean, edible podded, Guar bean, edible podded, Jackbean, edible podded, Kidney bean, edible podded, Lablab bean, edible podded, Moth bean, edible podded, Mung bean, edible podded, Navy bean, edible podded, Rice bean, edible podded, Scarlet runner bean, edible podded, Snap bean, edible podded, Sword bean, edible podded, Urd bean, edible podded, Vegetable soybean, edible podded, Velvet bean, edible podded, Wax bean, edible podded, Winged pea, edible podded, and Yardlong bean, edible podded; Individual crops of Proposed Crop Subgroup 6–19B: Edible podded pea legume vegetable subgroup including Chickpea, edible podded, Dwarf pea, edible podded, Edible podded pea, Grass-pea, edible podded, Green pea, edible podded, Lentil, edible podded, Pigeon pea, edible podded, Snap pea, edible podded, Snow pea, edible podded, and Sugar snap pea, edible podded; Individual crops of Proposed Crop Subgroup 6–19C: Succulent shelled bean subgroup including Andean lupin, succulent shelled, Blackeyed pea, succulent shelled, Blue lupin, succulent shelled, Broad bean, succulent shelled, Catjang bean, succulent shelled, Cowpea, succulent shelled, Crowder pea, succulent shelled, Goa bean, succulent shelled, Grain lupin, succulent shelled, Jackbean, succulent shelled, Lablab bean, succulent shelled, Lima bean, succulent shelled, Moth bean, succulent shelled, Scarlet runner bean, succulent shelled, Southern pea, succulent shelled, Sweet lupin, succulent shelled, Vegetable soybean, succulent shelled, Velvet bean, succulent shelled, Wax bean, succulent shelled, White lupin, succulent shelled, White sweet lupin, succulent shelled, and Yellow lupin, succulent shelled; Individual crops of Proposed Crop Subgroup 6–19D: Succulent shelled pea subgroup including Chickpea, succulent shelled, English pea, succulent shelled, Garden pea, succulent shelled, Green pea, succulent shelled, Lentil, succulent shelled, and Pigeon pea, succulent shelled; Individual crops of Proposed Crop Subgroup 6–19E: Dried shelled bean, except soybean, subgroup including Adzuki bean, dry seed,

African yam-bean, dry seed, American potato bean, dry seed, Andean lupin, dry seed, Asparagus bean, dry seed, Black bean, dry seed, Blackeyed pea, dry seed, Blue lupin, dry seed, Broad bean, dry seed, Catjang bean, dry seed, Chinese longbean, dry seed, Cowpea, dry seed, Cranberry bean, dry seed, Crowder pea, dry seed, Dry bean, dry seed, Field bean, dry seed, French bean, dry seed, Garden bean, dry seed, Goa bean, dry seed, Grain lupin, dry seed, Great northern bean, dry seed, Green bean, dry seed, Guar bean, dry seed, Horse gram, dry seed, Jackbean, dry seed, Kidney bean, dry seed, Lablab bean, dry seed, Lima bean, dry seed, Morama bean, dry seed, Moth bean, dry seed, Mung bean, dry seed, Navy bean, dry seed, Pink bean, dry seed, Pinto bean, dry seed, Red bean, dry seed, Rice bean, dry seed, Scarlet runner bean, dry seed, Southern pea, dry seed, Sweet lupin, dry seed, Sword bean, dry seed, Tepary bean, dry seed, Urd bean, dry seed, Vegetable soybean, dry seed, Velvet bean, seed, dry seed, White lupin, dry seed, White sweet lupin, dry seed, Winged pea, dry seed, Yardlong bean, dry seed, Yellow bean, dry seed, and Yellow lupin, dry seed; Individual crops of Proposed Crop Subgroup 6–19F: Dried shelled pea subgroup including: Chickpea, dry seed, Dry pea, dry seed, Field pea, dry seed, Garden pea, dry seed, Grasspea, dry seed, Green pea, dry seed, Lentil, dry seed, Pigeon pea, dry seed, and Pea, forage. *Contact:* RD.

9. *File Symbol:* 42182–RU. *Docket ID number:* EPA–HQ–OPP–2021–0530.

*Applicant:* Microban Products Company; 11400 Vanstory Drive, Huntersville, NC 28078. *Product name:* Microban Additive GS. *Active ingredient:* Benzoic Acid—*Proposed new use:* Materials preservative to prevent stain and odor causing bacteria and fungi in and on consumer, commercial, and industrial products used at up to 10%. *Contact:* AD.

10. *File Symbol:* [45728–GL and 45728–GU]. *Docket ID number:* EPA–HQ–OPP–2021–0290. *Applicant:* Taminco US LLC, a subsidiary of Eastman Chemical Company, 200 S. Wilcox Drive Kingsport, TN 37660–5147. *Active ingredient:* chlormequat chloride. *Product type:* fungicide. *Proposed use:* establish domestic tolerances in or on, barley, oat, triticale, and wheat grains. They are also establishing secondary residues in eggs, milk, meat, and poultry. *Contact:* RD.

11. *EPA Registration Number:* 59639–198. *Docket ID number:* EPA–HQ–OPP–2021–0432. *Applicant:* Valent U.S.A. LLC, 4600 Norris Canyon Road, P.O. Box 5075, San Ramon, CA 94583–0975.

*Active ingredient:* Mandestrobin.

*Product type:* Fungicide. *Proposed use:* Rapeseed subgroup 20A. *Contact:* RD.

12. *EPA Registration Number:* 59639–201. *Docket ID number:* EPA–HQ–OPP–2021–0432. *Applicant:* Valent U.S.A. LLC, 4600 Norris Canyon Road, P.O. Box 5075, San Ramon, CA 94583–0975. *Active ingredient:* Mandestrobin.

*Product type:* Fungicide. *Proposed use:* Rapeseed subgroup 20A. *Contact:* RD.

13. *EPA Registration Number:* 59639–239. *Docket ID number:* EPA–HQ–OPP–2021–0432. *Applicant:* Valent U.S.A. LLC, 4600 Norris Canyon Road, P.O. Box 5075, San Ramon, CA 94583–0975. *Active ingredient:* Mandestrobin.

*Product type:* Fungicide. *Proposed use:* Seed treatment use on Rapeseed subgroup 20A. *Contact:* RD.

14. *EPA File Symbol:* 59639–ELU. *Docket ID number:* EPA–HQ–OPP–2021–0432. *Applicant:* Valent U.S.A. LLC, 4600 Norris Canyon Road, P.O. Box 5075, San Ramon, CA 94583–0975. *Active ingredient:* Mandestrobin.

*Product type:* Fungicide. *Proposed use:* Seed treatment use on Rapeseed subgroup 20A. *Contact:* RD.

15. *EPA Registration Number:* 62719–21, 62719–657, 62719–684, and 62719–741. *Docket ID number:* EPA–HQ–OPP–2021–0352. *Applicant:* Dow Agrosiences, 9330 Zionsville Road, Indianapolis, IN 46268. *Active ingredient:* Nitrpyrin. *Product type:* Nitrification Inhibitor. *Proposed use:* Cottonseed (crop subgroup 20C); cotton, gin byproducts; cotton, meal; rice, grain; and rice, straw. *Contact:* AD.

16. *EPA Registration Number:* 65402–8 and 72372–3. *Docket ID Number:* EPA–HQ–OPP–2021–0471. *Applicant:* PeroxyChem LLC., 2005 Market St. Suite 3200, Philadelphia, PA 19103. *Active ingredients:* Hydrogen peroxide and Ethaneperoxoic acid. *Product Type:* Antimicrobial. *Proposed Use:* Medical Waste. *Contact:* AD.

17. *EPA Registration Number:* 71512–8; 71512–1. *Docket ID number:* EPA–HQ–OPP–2020–0245. *Applicant:* ISK Biosciences Corporation, 7470 Auburn Road, Suite A, Concord, OH 44077–9703. *Active ingredient:* Fluazinam. *Product type:* Fungicide Manufacturing Use Product (MUP); Fungicide End Use Product. *Proposed use:* Individual commodities of Proposed Crop Subgroup 6–18A: Edible podded bean legume vegetable subgroup including: French bean, edible podded; garden bean, edible podded; green bean, edible podded; scarlet runner bean, edible; snap bean, edible; kidney bean, edible; navy bean, edible; wax bean, edible; asparagus bean, edible podded; catjang bean, edible podded; Chinese longbean, edible podded; cowpea, edible podded;



moth bean, edible podded; mung bean, edible podded; rice bean, edible podded; urd bean, edible podded; yardlong bean, edible podded; goa bean, edible podded; guar bean, edible podded; jackbean, edible podded; lablab bean, edible podded; vegetable soybean, edible podded; sword bean, edible podded; winged pea, edible podded; velvet bean, edible podded. Individual commodities of Proposed Crop Subgroup 6–19B: Edible podded pea legume vegetable subgroup including: Dwarf pea, edible podded; edible podded pea; green pea, edible podded; snap pea, edible podded; snow pea, edible podded; sugar snap pea, edible podded; grass-pea, edible podded; lentil, edible podded; pigeon pea, edible podded; chickpea, edible podded. Individual commodities of Proposed Crop Subgroup 6–19C: Succulent shelled bean subgroup including: Lima bean, succulent shelled; scarlet runner bean, succulent shelled; wax bean, succulent shelled; blackeyed pea, succulent shelled; moth bean, succulent shelled; catjang bean, succulent shelled; cowpea, succulent shelled; crowder pea, succulent shelled; southern pea, succulent shelled; Andean lupin, succulent shelled; blue lupin, succulent shelled; grain lupin, succulent shelled; sweet lupin, succulent shelled; white lupin, succulent shelled; white sweet lupin, succulent shelled; yellow lupin, succulent shelled; broad bean, succulent shelled; jackbean, succulent shelled; goa bean, succulent shelled; lablab bean, succulent shelled; vegetable soybean, succulent shelled; velvet bean, succulent shelled. Individual commodities of Proposed Crop Subgroup 6–19D: Succulent shelled pea subgroup including: Chickpea, succulent shelled; English pea, succulent shelled; garden pea, succulent shelled; green pea, succulent shelled; pigeon pea, succulent shelled; lentil, succulent shelled. Individual commodities of Proposed Crop Subgroup 6–19E: Dried shelled bean, except soybean, subgroup including: African yam-bean, dry seed; American potato bean, dry seed; Andean lupin bean, dry seed; blue lupin bean, dry seed; grain lupin bean, dry seed; sweet lupin bean, dry seed; white lupin bean, dry seed; white sweet lupin bean, dry seed; yellow lupin bean, dry seed; black bean, dry seed; cranberry bean, dry seed; dry bean, dry seed; field bean, dry seed; French bean, dry seed; garden bean, dry seed; great northern bean, dry seed; green bean, dry seed; kidney bean, dry seed; Lima bean, dry seed; navy bean, dry seed; pink bean, dry seed; pinto bean, dry seed; red bean, dry seed;

scarlet runner bean, dry seed; tepary bean, dry seed; yellow bean, dry seed; adzuki bean, dry seed; blackeyed pea, dry seed; asparagus bean, dry seed; catjang bean, dry seed; Chinese longbean, dry seed; cowpea, dry seed; crowder pea, dry seed; mung bean, dry seed; moth bean, dry seed; rice bean, dry seed; southern pea, dry seed; urd bean, dry seed; yardlong bean, dry seed; broad bean, dry seed; guar bean, dry seed; goa bean, dry seed; horse gram, dry seed; jackbean, dry seed; lablab bean, dry seed; morama bean, dry seed; sword bean, dry seed; winged pea, dry seed; velvet bean, dry seed; vegetable soybean, dry seed. Individual commodities of Proposed Crop Subgroup 6–19F: Dried shelled pea subgroup including: Field pea, dry seed; dry pea, dry seed; green pea, dry seed; garden pea, dry seed; chickpea, dry seed; lentil, dry seed; grass-pea, dry seed; pigeon pea, dry seed; pea, field, hay; pea, field, vines; tomato subgroup 8–10A; papaya; vegetable, brassica, head and stem, group 5–16, except cabbage; brassica, leafy greens, subgroup 4–16B; kohlrabi. *Contact*: RD.

*18. EPA Registration Numbers*: 71512–26, 71512–27, 71512–32. *Docket ID Number*: EPA–HQ–OPP–2021–0387. *Applicant*: ISK Biosciences Corporation: 7470 Auburn Road, Suite A; Concord, OH 44077. *Active Ingredient*: Cyclaniliprole. *Product Type*: Insecticide. *Proposed Use*: artichoke, globe and sunflower subgroup 20B and for new greenhouse uses (with amended tolerances) on tomato subgroup 8–10A and pepper/eggplant subgroup 8–10B. *Contact*: RD.

*19. EPA Registration Number*: 74655–34. *Docket ID number*: EPA–HQ–OPP–2021–0522. *Applicant*: Solenis LLC; 701 Market Street, Suite 111 Box 112; St. Augustine, FL 32095. *Active ingredient*: Ammonium carbamate. *Product type*: Antimicrobial]. *Proposed use*: Algal, bacterial and fungal slime control in industrial water systems (algal, bacterial and fungal slime control). *Contact*: AD.

*Authority*: 7 U.S.C. 136 *et seq.*

Dated: August 16, 2021.

**Delores Barber,**

*Director, Information Technology and Resources Management Division, Office of Program Support.*

[FR Doc. 2021–18719 Filed 8–30–21; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2021–0303; FRL–8753–01–OCSPP]

### Agency Information Collection Activities; Proposed Renewal of an Existing Collection and Request for Comment; Methylene Chloride; Regulation of Paint and Coating Removal for Consumer Use Under TSCA Section 6(a)

**AGENCY**: Environmental Protection Agency (EPA).

**ACTION**: Notice.

**SUMMARY**: In compliance with the Paperwork Reduction Act (PRA), this document announces the availability of and solicits public comment on an Information Collection Request (ICR) that EPA is planning to submit to the Office of Management and Budget (OMB). The ICR, entitled: “Methylene Chloride; Regulation of Paint and Coating Removal for Consumer Use Under TSCA Section 6(a)” and identified by EPA ICR No. 2556.03 and OMB Control No. 2070–0204, represents the renewal of an existing ICR that is scheduled to expire on May 31, 2022. Before submitting the ICR to OMB for review and approval under the PRA, EPA is soliciting comments on specific aspects of the proposed information collection summarized in this document. The ICR and accompanying material are available in the docket for public review and comment.

**DATES**: Comments must be received on or before November 1, 2021.

**ADDRESSES**: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2021–0303, using <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <http://www.epa.gov/dockets>.

Due to the public health concerns related to COVID–19, the EPA Docket Center (EPA/DC) and Reading Room is closed to visitors with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC and docket access, visit <https://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT**: Niva Kramek, Existing Chemicals Risk



Management Division (7404T), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; telephone number: (202) 564-4830; email address: *kramek.niva@epa.gov*.

*For general information contact:* The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554-1404; email address: *TSCA-Hotline@epa.gov*.

#### SUPPLEMENTARY INFORMATION:

### I. What information is EPA particularly interested in?

Pursuant to PRA section 3506(c)(2)(A) (44 U.S.C. 3506(c)(2)(A)), EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.
2. Evaluate the accuracy of the Agency's estimates of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
3. Enhance the quality, utility, and clarity of the information to be collected.
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ fewer than 25 individuals) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

### II. What information collection activity or ICR does this action apply to?

*Title:* Methylene Chloride; Regulation of Paint and Coating Removal for Consumer Use Under TSCA Section 6(a).

*ICR number:* EPA ICR No. 2556.03.

*OMB control number:* OMB Control No. 2070-0204.

*ICR status:* This ICR is currently scheduled to expire on May 31, 2022. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the Code

of Federal Regulations (CFR), after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, and are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers for certain EPA regulations is consolidated in 40 CFR part 9.

*Abstract:* The manufacture, processing, and distribution in commerce of methylene chloride for consumer paint and coating removal is prohibited under EPA regulations in 40 CFR part 751, as promulgated under the Toxic Substances Control Act (TSCA), 15 U.S.C. 2601 *et seq.* Each person who manufactures, processes, or distributes in commerce methylene chloride for non-prohibited uses is required to notify companies to whom methylene chloride is shipped of the prohibitions under 40 CFR part 751 through the Safety Data Sheet (SDS). Each person who manufactures, processes, or distributes in commerce (except for retailers) any methylene chloride is also required to retain in one location at the headquarters of the company, or at the facility for which the records were generated, documentation showing: (i) The name, address, contact, and telephone number of companies to whom methylene chloride was shipped; (ii) a copy of the notification provided to companies to whom the methylene chloride was shipped; and (iii) the amount of methylene chloride shipped. This information must be retained for 3 years from the date of shipment.

EPA established these requirements under section 6(a) of TSCA in response to a final determination that the consumer use of methylene chloride in paint and coating removal presents an unreasonable risk of injury to health. This ICR consists of the downstream notification of the prohibitions and the recordkeeping requirement.

*Burden statement:* The annual public reporting and recordkeeping burden for this collection of information is estimated to annual average 0.33 hours per response. Burden is defined in 5 CFR 1320.3(b).

The ICR supporting statement, which is available in the docket along with other related materials, provides a detailed explanation of the collection activities and the burden estimate that is only briefly summarized here:

*Respondents/Affected Entities:* Respondents affected by this activity may include those that engage in the manufacture, processing and distribution in commerce of methylene chloride for consumer paint and coating removal. The ICR provides a list of the

North American Industrial Classification System codes that might apply to entities that may be affected by the activities described in this ICR.

*Respondent's obligation to respond:* Mandatory, per 40 CFR 751.

*Estimated total number of potential respondents:* 14.

*Frequency of response:* On occasion.

*Estimated total average number of responses for each respondent:* 1.

*Estimated total annual burden hours:* 6.96 hours.

*Estimated total annual costs:* \$298.

### III. Are there changes in the estimates from the last approval?

There is a decrease in total annual burden and costs compared with those identified in the ICR currently approved by OMB. Burden decreased from 69 hours to 6.96 hours and costs decreased from \$3,712 to \$298. This decrease in respondent burden and costs is due to a significant decrease in the number of estimated respondents. Most respondents need to perform the actions required by this ICR once and responded to the requirements during the previous ICR period. However, EPA does not assume that the number of responses has dropped to zero. Therefore, EPA has estimated low levels of respondents in each category to account for new firms or new products. This change is an adjustment.

In addition, OMB has requested that EPA move towards using the 18-question format for ICR Supporting Statements used by other federal agencies and departments and that is based on the submission instructions established by OMB in 1995, replacing the alternate format developed by EPA and OMB prior to 1995. The Agency does not expect this change in format to result in substantive changes to the information collection activities or related estimated burden and costs.

### IV. What is the next step in the process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** document pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

*Authority:* 44 U.S.C. 3501 *et seq.*

Dated: August 26, 2021.

**Michal Freedhoff,**

*Assistant Administrator, Office of Chemical Safety and Pollution Prevention.*

[FR Doc. 2021-18784 Filed 8-30-21; 8:45 am]

**BILLING CODE 6560-50-P**

## FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-1183; FR ID 44952]

### Information Collection Being Reviewed by the Federal Communications Commission

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

**DATES:** Written PRA comments should be submitted on or before November 1, 2021. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESSES:** Direct all PRA comments to Cathy Williams, FCC, via email to [PRA@fcc.gov](mailto:PRA@fcc.gov) and to [Cathy.Williams@fcc.gov](mailto:Cathy.Williams@fcc.gov).

**FOR FURTHER INFORMATION CONTACT:** For additional information about the information collection, contact Cathy Williams at (202) 418-2918.

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 3060-1183.

*Title:* Establishment of a Public Safety Answering Point Do-Not-Call Registry, CG Docket No. 12-129.

*Form Number:* N/A.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* Business or other for-profit entities; Federal Government; Not-for-profit institutions; State Local or Tribal Government.

*Number of Respondents and Responses:* 106,500 respondents; 1,446,333 responses.

*Estimated Time per Response:* 30 minutes (.50 hours) to 1 hour.

*Frequency of Response:* Recordkeeping requirement; Annually, monthly, on occasion and one-time reporting requirements.

*Obligation to Respond:* Required to obtain or retain benefits. The statutory authority for the information collection requirements is found in the Middle Class Tax Relief and Job Creation Act of 2012, Pub. Law 112-96, February 22, 2012.

*Total Annual Burden:* 792,667 hours.

*Total Annual Cost:* None.

*Nature and Extent of Confidentiality:* An assurance of confidentiality is not offered because this information collection does not require the collection of personally identifiable information from individuals.

*Privacy Impact Assessment:* No impact(s).

*Needs and Uses:* The rules adopted herein establish recordkeeping requirements for a large variety of entities, including small business entities. First, each Public Safety Answering Point (PSAP) may designate a representative who shall be required to file a certification with the administrator of the PSAP registry that they are authorized to place numbers onto that registry. The designated PSAP representative shall provide contact information including the PSAP represented, name, title, address, telephone number and email address. Verified PSAPs shall be permitted to upload to the registry any PSAP telephone associated with the provision of emergency services or communications with other public safety agencies. On an annual basis designated PSAP representatives shall access the registry, review their numbers and remove any ineligible numbers from the registry. Second, an operator of automatic dialing equipment

(OADE) is prohibited from contacting any number on the PSAP registry. Each OADE must register for access to the PSAP registry by providing contact information which includes name, business address, contact person, telephone number, email, and all outbound telephone numbers used to place autodialed calls. All such contact information must be updated within 30 days of any change. In addition, the OADE must certify that it is accessing the registry solely to prevent autodialed calls to numbers on the registry. An OADE must access and employ a version of the PSAP registry obtained from the registry administrator no more than 31 days prior to the date any call is made, and maintain record documenting this process. No person or entity may sell, rent, lease, purchase, share, or use the PSAP registry for any purpose expect to comply with our rules prohibiting contact with numbers on the registry.

Federal Communications Commission.

**Marlene Dortch,**

*Secretary, Office of the Secretary.*

[FR Doc. 2021-18685 Filed 8-30-21; 8:45 am]

**BILLING CODE 6712-01-P**

## FEDERAL COMMUNICATIONS COMMISSION

[FR ID 45458]

### Federal Advisory Committee Act; Communications Security, Reliability, and Interoperability Council

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of public meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, this notice advises interested persons that the Federal Communications Commission's (Commission) Communications Security, Reliability, and Interoperability Council (CSRIC) VIII will hold its first meeting on September 22, 2021 at 1:00 p.m. EDT. **DATES:** September 22, 2021. **ADDRESSES:** The Meeting will be held via conference call and available to the public via WebEx at <http://www.fcc.gov/live>.

**FOR FURTHER INFORMATION CONTACT:** Suzon Cameron, Designated Federal Officer, Federal Communications Commission, Public Safety and Homeland Security Bureau, (202) 418-1916 or email: [suzon.cameron@fcc.gov](mailto:suzon.cameron@fcc.gov), or Kurian Jacob, Deputy Designated Federal Officer, Federal Communications Commission, Public Safety and Homeland Security Bureau,

(202) 418-2040 or email: [kurian.jacob@fcc.gov](mailto:kurian.jacob@fcc.gov).

**SUPPLEMENTARY INFORMATION:** The meeting on September 22, 2021, at 1:00 p.m. EDT, will be held electronically only and may be viewed live, by the public, at <http://www.fcc.gov/live>. Any questions that arise during the meeting should be sent to [CSRIC@fcc.gov](mailto:CSRIC@fcc.gov) and will be answered at a later date. The meeting is being held in a wholly electronic format in light of travel and gathering restrictions related to COVID-19 in place in Washington, DC, and the larger U.S., which affect members of CSRIC and the Commission.

The CSRIC is a Federal Advisory Committee that will provide recommendations to the Commission to improve the security, reliability, and interoperability of communications systems. On June 30, 2021, the Commission, pursuant to the Federal Advisory Committee Act, renewed the charter for CSRIC VII for a period of two years through June 29, 2023. The meeting on September 22, 2021, will be the first meeting of CSRIC VIII under the current charter. The Commission will provide audio and/or video coverage of the meeting over the internet from the FCC's web page at <http://www.fcc.gov/live>. The public may submit written comments before the meeting to Suzon Cameron, CSRIC VIII Designated Federal Officer, by email to [CSRIC@fcc.gov](mailto:CSRIC@fcc.gov).

Open captioning will be provided for this event. Other reasonable accommodations for people with disabilities are available upon request. Requests for such accommodations should be submitted via email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or by calling the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (tty). Such requests should include a detailed description of the accommodation needed. In addition, please include a way the Commission can contact you if it needs more information. Please allow at least five days' advance notice; last-minute requests will be accepted but may be impossible to fill.

Federal Communications Commission.

**Katura Jackson,**

*Federal Register Liaison, Office of the Secretary.*

[FR Doc. 2021-18690 Filed 8-30-21; 8:45 am]

**BILLING CODE 6712-01-P**

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at <https://www.federalreserve.gov/foia/request.htm>. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington DC 20551-0001, not later than September 30, 2021.

*A. Federal Reserve Bank of St. Louis* (Holly A. Rieser, Manager) P.O. Box 442, St. Louis, Missouri 63166-2034.

Comments can also be sent electronically to

[Comments.applications@stls.frb.org](mailto:Comments.applications@stls.frb.org):

1. *Friendship Bancshares, Inc., Linn, Missouri*; to acquire 40 percent of the voting shares of Grey Mountain Holdings, Inc., Columbia, Missouri, and thereby indirectly acquire voting shares of Investors Community Bank, Chillicothe, Missouri.

*B. Federal Reserve Bank of Kansas City* (Jeffrey Ingarten, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198-0001:

1. *Employee Stock Ownership Plan Accounts Trust of the Security Bank KSOP & Trust, Laurel, Nebraska*; to become a bank holding company by acquiring 31.3 percent of the voting shares of First Laurel Security Co., and thereby indirectly acquiring voting

shares of Security Bank, both of Laurel, Nebraska.

Board of Governors of the Federal Reserve System, August 26, 2021.

**Michele Taylor Fennell,**

*Deputy Associate Secretary of the Board.*

[FR Doc. 2021-18760 Filed 8-30-21; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Agency for Healthcare Research and Quality

#### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Agency for Healthcare Research and Quality (AHRQ), HHS.

**ACTION:** Notice.

**SUMMARY:** This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project "Ambulatory Surgery Center Survey on Patient Safety Culture Database." This proposed information collection was previously published in the **Federal Register** on May 25, 2021 and allowed 60 days for public comment. AHRQ did not receive substantive comments. The purpose of this notice is to allow an additional 30 days for public comment. **DATES:** Comments on this notice must be received by September 30, 2021.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427-1477, or by email at [doris.lefkowitz@AHRQ.hhs.gov](mailto:doris.lefkowitz@AHRQ.hhs.gov).

#### SUPPLEMENTARY INFORMATION:

##### Proposed Project

*Ambulatory Surgery Center Survey on Patient Safety Culture Database*

Ambulatory surgery centers (ASCs) are a fast-growing healthcare setting, demonstrating tremendous growth both in the volume and complexity of procedures being performed. ASCs provide surgical services to patients who are not expected to need an inpatient stay following surgery. The

Centers for Medicare and Medicaid Services (CMS) defines ASCs as distinct entities that operate exclusively to provide surgical services to patients who do not require hospitalization and are not expected to need to stay in a surgical facility longer than 24 hours.

AHRQ's mission. As described in its 1999 reauthorizing legislation, Congress directed the Agency for Healthcare Research and Quality (AHRQ) to enhance the quality, appropriateness, and effectiveness of health services, as well as access to such services, by establishing a broad base of scientific research and promoting clinical and health systems practice improvements. The legislation also directed AHRQ to "conduct and support research, evaluations, and training, support demonstration projects, research networks, and multidisciplinary centers, provide technical assistance, and disseminate information on health care and on systems for the delivery of such care, including activities with respect to health statistics, surveys, database development, and epidemiology."

Furthermore, AHRQ shall conduct and support research "to provide objective clinical information to health care practitioners and other providers of health care goods or services; identify the causes of preventable health care errors and patient injury in health care delivery; develop, demonstrate, and evaluate strategies for reducing errors and improving patient safety; and disseminate such effective strategies throughout the health care industry".

Background on the Ambulatory Surgery Center Survey on Patient Safety Culture (ASC SOPS). In 1999, the Institute of Medicine called for health care organizations to develop a "culture of safety" such that their workforce and processes focus on improving the reliability and safety of care for patients (IOM, 1999; *To Err is Human: Building a Safer Health System*). To respond to the need for tools to assess patient safety culture in health care, AHRQ developed and pilot tested the ASC Survey on Patient Safety Culture with OMB approval (OMB NO. 0935-0216; approved October 31, 2013).

The survey is designed to enable ASCs to assess provider and staff perspectives about patient safety issues, medical error, and error reporting. The survey includes 27 items that measure 8 composites of patient safety culture. In addition to the composite items, the survey includes one item measuring how often ASCs document near-misses; one item asking whether the respondent is in the room during surgeries, procedures, or treatments; and three items about communication before and

after surgeries, procedures, or treatments. The survey also includes an overall rating item on patient safety, two items about respondent characteristics, and a section for open-ended comments. AHRQ made the survey publicly available along with a Survey User's Guide and other toolkit materials in May 2015 on the AHRQ website.

The AHRQ ASC SOPS Database consists of data from the AHRQ ASC Survey on Patient Safety Culture. Ambulatory surgery centers in the U.S. can voluntarily submit data from the survey to AHRQ, through its contractor, Westat. The ASC SOPS Database (OMB NO. 0935-0242; Approved September 10, 2018) was developed by AHRQ in 2019 in response to requests from ASCs interested in tracking their own survey results. Organizations submitting data receive a feedback report, as well as a report of the aggregated, de-identified findings of the other ASCs submitting data. These reports are used to assist ASC staff in their efforts to improve patient safety culture in their organizations.

Rationale for the information collection. The ASC SOPS and the ASC SOPS Database support AHRQ's goals of promoting improvements in the quality and safety of health care in ASCs. The survey, toolkit materials, and database results are all made publicly available on AHRQ's website. Technical assistance is provided by AHRQ through its contractor at no charge to ASCs, to facilitate the use of these materials for ASC patient safety and quality improvement.

Rationale for information collection approval. The Agency for Healthcare Research and Quality (AHRQ) requests that the Office of Management and Budget (OMB) reapprove, under the Paperwork Reduction Act of 1995, AHRQ's collection of information for the AHRQ ASC SOPS Database; OMB NO. 0935-0242; Approved September 10, 2018.

This database will:

1. Present results from ASCs that voluntarily submit their data;
2. Provide data to ASCs to facilitate internal assessment and learning in the patient safety improvement process; and
3. Provide supplemental information to help ASCs identify their strengths and areas with potential for improvement in patient safety culture.

This study is being conducted by AHRQ through its contractor, Westat, pursuant to AHRQ's statutory authority to conduct and support research on health care and on systems for the delivery of such care, including activities with respect to the quality, effectiveness, efficiency,

appropriateness and value of healthcare services and with respect to health statistics, surveys, and database development. 42 U.S.C 299a(a)(1) and (8).

### Method of Collection

To achieve the goal of this project the following activities and data collections will be implemented:

1. Eligibility and Registration Form—The point-of-contact (POC), often the manager of the ASC, completes a number of data submission steps and forms, beginning with completion of an online Eligibility and Registration Form. The purpose of this form is to collect basic demographic information about the ASC and initiate the registration process.

2. Data Use Agreement—The purpose of the data use agreement, completed by the ASC manager, is to state how data submitted by ASCs will be used and provides privacy assurances.

3. ASC Site Information—The purpose of the site level specifications, completed by the ASC POC, is to collect background characteristics of the ASC. This information will be used to analyze data collected with the ASC SOPS survey.

4. Data Files Submission—POCs upload their data file(s), using ASC survey data file specifications, to ensure that users submit standardized and consistent data in the way variables are named, coded, and formatted. The number of submissions to the database is likely to vary each year because ASCs do not administer the survey and submit data every year. Data submission is typically handled by one POC who is either an ASC administrative manager or a survey vendor who contracts with an ASC to collect and submit its data.

Survey data from the AHRQ Ambulatory Surgery Center Survey on Patient Safety Culture are used to produce three types of products:

- (1) An ASC SOPS Database Report that will be made publicly available on the AHRQ website (see ASC Database Report);
- (2) Individual ASC Survey Feedback Reports that are customized for each ASC that submits data to the database; and
- (3) Research data sets of individual-level and ASC-level de-identified data to enable researchers to conduct analyses. All data released in a data set are de-identified at the individual-level and the ASC-level.

ASCs will be invited to voluntarily submit their ASC SOPS survey data into the database. AHRQ's contractor, Westat, then cleans and aggregates the data to produce a PDF-formatted

Database Report displaying averages, standard deviations, and percentile scores on the survey's items and patient safety culture composite measures. The report also displays these results by ASC characteristics (e.g., number of operating/procedure rooms and geographic region) and respondent characteristics (e.g., staff position and hours worked per week).

The Database Report includes a section on data limitations, emphasizing that the report does not reflect a representative sampling of the U.S. ASC population. Because participating ASCs will choose to voluntarily submit their data into the database and therefore are not a random or national sample of ASCs, estimates based on this self-selected group might be biased estimates. We recommend that users review the database results with these caveats in mind.

Each ASC that submits its data receives a customized survey feedback report that presents their results alongside the aggregated results from other participating ASCs.

ASCs use the ASC SOPS Survey, Database Reports, and Individual ASC Survey Feedback Reports for a number of purposes, to:

- Raise staff awareness about patient safety;
- Elucidate and assess the current status of patient safety culture in their ASC;
- Identify strengths and areas for patient safety culture improvement;
- Examine trends in patient safety culture change over time; and
- Evaluate the cultural impact of patient safety initiatives and interventions.

*Estimated Annual Respondent Burden*

Exhibit 1 shows the estimated annualized burden hours for the

respondents' time to participate in the database. An estimated 100 ASC managers (i.e., POCs from ASCs) will complete the database submission steps and forms. Each POC will submit the following:

- Eligibility and registration form (completion is estimated to take about 5 minutes).
- Data use agreement (completion is estimated to take about 3 minutes).
- ASC Site Information Form (completion is estimated to take about 5 minutes).
- Survey data submission will take an average of one hour.

The total burden is estimated to be 121 hours.

Exhibit 2 shows the estimated annualized cost burden based on the respondents' time to submit their data. The cost burden is estimated to be \$5,804.37.

**EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS**

Form name	Number of respondents/ POCs	Number of responses per POC	Hours per response	Total burden hours
Eligibility and Registration Form .....	100	1	5/60	8
Data Use Agreement .....	100	1	3/60	5
ASC Site Information Form .....	100	1	5/60	8
Data Files Submission .....	100	1	1	100
<b>Total .....</b>	<b>NA</b>	<b>NA</b>	<b>NA</b>	<b>121</b>

**EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN**

Form name	Number of respondents/ POCs	Total burden hours	Average hourly wage rate *	Total cost burden
Eligibility and Registration Form .....	100	8	\$47.97	\$383.76
Data Use Agreement .....	100	5	47.97	239.85
ASC Site Information .....	100	8	47.97	383.76
Data Files Submission .....	100	100	47.97	4,797.00
<b>Total .....</b>	<b>NA</b>	<b>121</b>	<b>NA</b>	<b>5,804.37</b>

\* Based on the mean hourly wage for 100 ASC Administrative Services Managers (11-3010; \$47.97) obtained from the May 2019 National Industry-Specific Occupational Employment and Wage Estimates: NAICS 621400—Outpatient Care Centers (located at [https://www.bls.gov/oes/current/naics4\\_621400.htm#11-00000](https://www.bls.gov/oes/current/naics4_621400.htm#11-00000)).

**Request for Comments**

In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501-3520, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ's health care research and health care information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of

burden (including hours and costs) of the proposed collection(s) of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent

request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: August 25, 2021.

**Marquita Cullom,**

*Associate Director.*

[FR Doc. 2021-18694 Filed 8-30-21; 8:45 am]

**BILLING CODE 4160-90-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Centers for Disease Control and Prevention**

[Docket No. CDC-2021-0088]

**Updating CDC's Contraception Guidance Documents: U.S. Medical Eligibility Criteria for Contraceptive Use and U.S. Selected Practice Recommendations for Contraceptive Use**

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice with comment period; correction.

**SUMMARY:** On August 19, 2021 the Centers for Disease Control and Prevention (CDC) in the Department of Health and Human Services (HHS) published a notice to obtain comment on CDC's contraception recommendations. Two guidance documents, *U.S. Medical Eligibility Criteria for Contraceptive Use* (US MEC) and *U.S. Selected Practice Recommendations for Contraceptive Use* (US SPR), provide evidence-based recommendations to assist health care providers when counseling patients on contraceptive choice and use. The notice did not include the mailing address to submit public comment. This notice provides the mailing address for the public.

**DATES:** The document published on August 19, 2021 (FR 86 46703). Comments must be received by October 18, 2021.

**ADDRESSES:** You may submit comments, identified by Docket No. CDC-2021-0088 by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Mail:* Kathryn M. Curtis, Ph.D., Division of Reproductive Health, Centers for Disease Control and Prevention, 4770 Buford Highway NE, MS S107-2, Atlanta, GA 30341.

*Instructions:* All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to <http://regulations.gov>, including any personal information provided. For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Kathryn M. Curtis, Ph.D., Division of Reproductive Health, Centers for Disease Control and Prevention, 4770 Buford Highway NE, MS S107-2,

Atlanta, GA 30341. Telephone: 770-488-5200. Email: [usmecspr@cdc.gov](mailto:usmecspr@cdc.gov).

**SUPPLEMENTARY INFORMATION:**

**Public Participation**

Interested persons or organizations are invited to participate by submitting written views, recommendations, and data. CDC invites comments specifically on the following questions:

1. Are there existing US MEC or US SPR recommendations that CDC should consider reviewing for possible *revision*, based on new evidence or other justification? Please provide references to new evidence and justification to support review of existing recommendations.

2. Are there new recommendations that CDC should consider adding to the US MEC? This could include eligibility criteria for contraceptive use among people with medical conditions or characteristics not currently included in the US MEC. Please provide references to supporting evidence, justification, and impact of new recommendations.

3. Are there new recommendations that CDC should consider adding to the US SPR? This could include clinical practice recommendations to address issues regarding initiation and use of specific contraceptive methods not currently included in the US SPR. Please provide references to supporting evidence, justification, and impact of new recommendations.

4. Are there other issues that should be considered or suggestions to improve implementation of the US MEC and US SPR recommendations to help ensure equitable access to contraceptive services (such as better ways of presenting the recommendations, additional job aids or tools for providers, broader dissemination and implementation strategies, inclusion of additional partners, etc.)? Please provide references to supporting evidence or justification.

Please note that comments received, including attachments and other supporting materials, are part of the public record and are subject to public disclosure. Comments will be posted on <https://www.regulations.gov>. Therefore, do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure. If you include your name, contact information, or other information that identifies you in the body of your comments, that information will be on public display. CDC will review all submissions and may choose to redact, or withhold, submissions containing private or proprietary information such as Social Security numbers, medical

information, inappropriate language, or duplicate/near duplicate examples of a mass-mail campaign. CDC will carefully consider all comments submitted in preparation of the final document.

*Supplementary Information:* In 2017-2019 in the United States, 65% of women aged 15-49 years used contraception; the most common contraceptive methods used were female sterilization, oral contraceptive pills, implants and intrauterine devices, and male condoms [1]. The majority (61%) of U.S. women aged 18-49 years have ongoing or potential need for contraceptive services [2]. Similarly, in 2010-2016, about 60% of men aged 15-44 years in the United States needed family planning [3]. Equitable access to evidence-based, high quality care is critical to meeting the needs of persons seeking contraceptive services, improving reproductive autonomy, and reducing unintended pregnancy in the United States [2].

Since 2010, CDC has published evidence-based recommendations on contraception provision. These recommendations are intended to assist health care providers when they counsel patients about choice and use of contraceptive methods, with the goal of reducing medical barriers to contraception access. *U.S. Medical Eligibility Criteria for Contraceptive Use, 2016* (US MEC) comprises recommendations for the use of specific contraceptive methods by persons with certain characteristics or medical conditions, such as diabetes, hypertension, and being postpartum or breastfeeding [4]. *U.S. Selected Practice Recommendations for Contraceptive Use, 2016* (US SPR) addresses common, yet sometimes complex, issues regarding initiation and use of specific contraceptive methods, such as examinations or tests needed before starting a method and management of side effects [5]. Both guidance documents are adapted from global guidance developed by the World Health Organization (WHO) and are based on review of the scientific evidence and consultation with national experts. CDC partners with other federal agencies and professional organizations in the development, dissemination, and implementation of the guidance documents to improve access to contraception and quality of family planning services.

CDC is committed to ensuring that the US MEC and US SPR recommendations are reviewed and updated as new scientific evidence becomes available. Working with WHO, CDC continuously monitors peer-reviewed literature and updates recommendations as needed,

with comprehensive reviews approximately every 5 years. CDC is currently planning for the next update of the US MEC and US SPR and will consider public comments when determining the scope of the guidance update. CDC is seeking feedback from health care providers, professional organizations, community-based organizations, organizations that seek to improve reproductive health, patient advocacy groups, and the public.

The current US MEC may be found at the Supplementary Materials tab of the docket and at <https://www.cdc.gov/reproductivehealth/contraception/mmwr/mec/summary.html>. The current US SPR may be found at the Supplementary Materials tab of the docket and at <https://www.cdc.gov/reproductivehealth/contraception/mmwr/spr/summary.html>.

#### References

1. Daniels K, Abma JC. Current contraceptive status among women aged 15–49: United States, 2017–2019. NCHS Data Brief 2020;388:1–8.
2. Zapata LB, Pazol K, Curtis KM et al. Need for contraceptive services among women of reproductive age—45 jurisdictions, United States, 2017–2019. MMWR Morb Mortal Wkly Rep 2021;70:910–15.
3. Marcell AV, Gibbs SE, Choiriyah I et al. National needs of family planning among US men aged 15 to 44 years. Am J Public Health 2016;106:733–9.
4. Curtis KM, Tepper NK, Jatlaoui TC, et al. U.S. medical eligibility criteria for contraceptive Use, 2016. MMWR Recomm Rep 2016;65(RR-3):1–103.
5. Curtis KM, Jatlaoui TC, Tepper NK, et al. U.S. selected practice recommendations for contraceptive use, 2016. MMWR Recomm Rep 2016;65(RR-4):1–66.

**Sandra Cashman,**

*Executive Secretary, Centers for Disease Control and Prevention.*

[FR Doc. 2021–18769 Filed 8–30–21; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

#### Submission for OMB Review; Monitoring and Compliance for ORR Care Provider Facilities (0970–0564)

**AGENCY:** Office of Refugee Resettlement, Administration for Children and Families, Department of Health and Human Services.

**ACTION:** Request for public comment.

**SUMMARY:** The Office of Refugee Resettlement (ORR), Administration for Children and Families (ACF), U.S.

Department of Health and Human Services (HHS), is proposing to continue to collect information that will allow the Unaccompanied Children (UC) Program to monitor its care provider facilities for compliance with federal and state laws and regulations, licensing and accreditation standards, ORR policies and procedures, and child welfare standards. These information collections were originally approved under emergency approval for 6 months. This request is to continue data collection.

**DATES:** *Comments due within 30 days of publication.* OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

#### SUPPLEMENTARY INFORMATION:

*Description:* ORR received several comments on this information collection in response to the **Federal Register** Notice published on January 21, 2021, (86 FR 6340) and has provided responses to those comments in its final submission to OMB. UC Path is critical to program operations and it is important that rollout of the new system not be delayed. Therefore, the below description details what will be included in the initial launch of the UC Path case management system and revisions based on public comments will be made after initial launch. ORR plans to conduct a deliberative review of commenters’ suggestions and concerns and submit a request for revisions to this information collection request in January 2022. The upcoming information collection request will also include revisions based on feedback from UC Path system users (*i.e.*, ORR grantee, contractor, and federal staff).

The components of this information request include:

1. *Corrective Action Report (Form M–1):* This instrument is used by ORR Monitoring Team staff (includes federal and contractor staff), ORR Federal Field Specialists, and ORR Project Officers to document care provider non-compliance with minimum standards for the care and timely release of UC;

federal and state laws and regulations; licensing standards; ORR policies and procedures; and child welfare standards. Care providers respond to each corrective action cited by ORR staff by entering a detail corrective action plan into the instrument and attaching any relevant supporting documents. Then, ORR staff document when each corrective action plan is completed to ORR’s satisfaction and enter a final determination.

2. *FFS Compliance and Safety Site Visit Report (Form M–3A):* This instrument is used by ORR Federal Field Specialists to document site visit observations and interview responses.

3. *Out-of-Network Site Visit Report (Form M–3B):* This instrument is used by ORR Federal Field Specialists to document site visit observations and interview responses for out-of-network providers.

#### Checklists for a Child-Friendly Environment

These instruments are used by care providers on a voluntary basis to help ensure compliance with ORR policies and procedures related to maintaining a safe, child-friendly environment. ORR may also ask care providers to complete the checklist prior to a site visit.

4. Checklist for a Child-Friendly Environment—Care Provider Facility (Form M–4A)
5. Checklist for a Child-Friendly Environment—Individual Foster Home (Form M–4B)

#### Incident Reviews

These instruments are used by ORR care provider staff to provide information to ORR on allegations of sexual abuse or sexual harassment that occurred in ORR care that were investigated by local child protective services, state licensing, local law enforcement, the HHS Office of the Inspector General, and/or the Federal Bureau of Investigation. Care providers submit the instrument to ORR’s Prevention of Sexual Abuse Team for review. Incident reviews help ensure that care providers have appropriate protective measures in place to prevent a similar incident from occurring again.

6. *UC Incident Review (Form M–5A):* This instrument is completed for allegations of sexual abuse or sexual harassment that occurred in ORR care between two children. Changed the full name of the form from “Sexual Abuse and Sexual Harassment UAC Incident Review” to “PSA UC Incident Review.”

7. *Adult Incident Review (Form M–5B):* This instrument is completed for allegations of sexual abuse, sexual harassment, or inappropriate sexual



behavior that occurred in ORR care between a child and an adult. Changed the full name of the form from “Sexual Abuse and Sexual Harassment Adult Incident Review” to “PSA Adult Incident Review.”

#### Site Visit Guides

These instruments are completed by care provider staff as part of the pre-monitoring process for biennial site visits and provide ORR Monitoring Team staff with information and supporting documents related to the overall functioning and oversight of the care provider program. There are separate instruments tailored specifically for monitoring of long term foster care (LTFC) programs, home study and post-release service (HS/PRS) providers, and/or voluntary agencies (primary grantees for LTFC and transitional foster care sub-grantees).

12. Site Visit Guide (Form M-7A)
13. Remote Monitoring Site Visit Guide (Form M-7B)
14. Long Term Foster Care Site Visit Guide (Form M-7C)
15. Long Term Foster Care Remote Site Visit Guide (Form M-7D)
16. Home Study and Post-Release Services Site Visit Guide (Form M-7E)
17. Voluntary Agency Site Visit Guide (Form M-7F)

#### Personnel File Checklists

These instruments are completed by care provider staff and ORR Monitoring Team staff (includes federal and contractor staff) during biennial site visits to ensure that programs are meeting ORR policies and procedures related to the maintenance of personnel files. There are separate instruments tailored specifically for HS/PRS provider files and LTFC parent files.

25. Personnel File Checklist (Form M-10A)
26. Supplement to Personnel File Checklist (Form M-10B)
27. Home Study and Post-Release Services Personnel File Checklist (Form M-10C)
28. Long Term Foster Care Foster Parent Checklist (Form M-10D)

#### Program Staff Questionnaires

These instruments are used by ORR Monitoring Team staff (includes federal and contractor staff) during biennial site visits to interview and document responses from various care provider program staff.

29. Program Director Questionnaire (Form M-11A)
30. Long Term Foster Care Program Director Questionnaire (Form M-11B)

31. Clinician Questionnaire (Form M-11C)
32. Long Term Foster Care Clinician Questionnaire (Form M-11D)
33. Case Manager Questionnaire (Form M-11E)
34. Long Term Foster Care Case Manager Questionnaire (Form M-11F)
35. Education Staff Questionnaire (Form M-11G)
36. Long Term Foster Care Education Questionnaire (Form M-11H)
37. Medical Coordinator Questionnaire (Form M-11I)
38. Youth Care Worker Questionnaire (Form M-11J)
39. Prevention of Sexual Abuse Compliance Manager Staff Questionnaire (Form M-11K)
40. Secure Detention Officer Questionnaire (Form M-11L)
41. Long Term Foster Care Home Finder Questionnaire (Form M-11M)
42. Long Term Foster Care Independent Living Life Skills Staff Questionnaire (Form M-11N)
43. Long Term Foster Care Foster Parent Questionnaire (Form M-11O)

#### Child Questionnaires

These instruments are used by ORR Monitoring Team staff (includes federal and contractor staff) during biennial site visits to interview and document responses from UC.

44. UC Questionnaire—Ages 6–12 Years Old (Form M-12A)
45. UC Questionnaire—Ages 13 and Older (Form M-12B)
46. Long Term Foster Care Client Questionnaire (Form M-12C)
47. Secure Client Questionnaire (Form M-12D)
48. UC Questionnaire—Ages 5 and Under (Form M-12E)

#### Service Provider Questionnaires

These instruments are used by ORR Monitoring Team staff (includes federal and contractor staff) during biennial site visits to interview and document responses from various service providers.

49. Home Study and Post-Release Services Director Questionnaire (Form M-11A)
50. Home Study and Post-Release Services Caseworker Questionnaire (Form M-13B)
51. Legal Service Provider Questionnaire (Form M-13C)
52. Long Term Foster Care Legal Service Provider Questionnaire (Form M-13D)
53. Case Coordinator Questionnaire (Form M-13E)

#### Monitoring Visit Planning

These instruments are used by ORR Monitoring Team staff (includes federal and contractor staff) to plan and track biennial site visits for each fiscal year. These forms will be housed in ORR's new database, UC Path.

54. Monitoring Visit (Form M-14)
55. Monitoring Schedule (Form M-15)

##### Proposed revisions:

- Replace the term “unaccompanied alien child (UAC)” with “unaccompanied child (UC)” throughout the instruments in this collection. Note that the screenshots of UC Path instruments attached to this memo do not reflect this change because it has not yet been developed in the system. However, the revision in terminology will be made before the system is launched.

- UC Incident Review (Form M-5A)—Changed the full name of the form from “Sexual Abuse and Sexual Harassment UAC Incident Review” to “PSA UC Incident Review.”

- Adult Incident Review (Form M-5B)—Changed the full name of the form from “Sexual Abuse and Sexual Harassment Adult Incident Review” to “PSA Adult Incident Review.”

- UC Questionnaires (Forms M-12A, M-12B, and M-12E)—Add a new version of the questionnaire designed for children ages 5 and under. Translate all three versions of the questionnaire into Spanish.

- Secure Client Questionnaire (Form M-12D)—Reformat the form, update the directions, and re-phrased some of the questions so that they are in line with ORR's other child questionnaires (Forms M12-A to M-12C).

- Shelter Site Visit Guide (Form (Form M-7A)—Revised question 6 in the “Background Checks” section to request a background check list for all staff, not just staff hired within the past 2 years. The average burden minutes per response was increased from 12 hours to 13 hours for respondents and from 28 hours to 29 hours for federal and contractor monitors.

- Remove the following instruments from the information collection. These instruments will be completed by federal staff as part of their normal job duties and by less than 10 contractor staff. Therefore, they are no longer subject to PRA requirements.

- Monitoring Notes (Form M-6A)
- Remote Monitoring Notes (Form M-6B)
- Long Term Foster Care Monitoring Notes (Form M-6C)
- Long Term Foster Care Remote Monitoring Notes (Form M-6D)
- UC Case File Checklist (Form M-8A)



- Long Term Foster Care Case File Checklist (Form M-8B)
- Home Study and Post-Release Services Case File Checklist (Form M-8C)

- Secure and Staff Secure Addendum to Case File Checklist (Form M-8D)
- On-Site Monitoring Checklist (Form M-9A)
- Foster Home On-Site Monitoring Checklist (Form M-9B)

- Post-Release Services Home Observation (Form M-9C)
- Respondents:* ORR grantee and contractor staff, foster parents, and UC.  
*Annual Burden Estimates*

ESTIMATED BURDEN HOURS AND OPPORTUNITY COSTS FOR RESPONDENTS

Information collection title	Annual number of respondents	Annual number of responses per respondent	Average burden hours per response	Annual total burden hours
Corrective Action Report (Form M-1)	216	0.5	5.00	540.00
FFS Compliance and Safety Site Visit Report (Form M-3A)	216	12.0	1.00	2,592.00
Out-of-Network Site Visit Report (Form M-3B)	24	5.0	1.00	120.00
Checklist for a Child-Friendly Environment (Form M-4)	216	12.0	0.25	648.00
Incident Reviews (Forms M-5A to M-5B)	216	0.3	1.50	97.20
Site Visit and Remote Monitoring Site Visit Guides (Forms M-7A to M-7B)	93	1.0	13.00	1,209.00
LTFC Site Visit and LTFC Remote Monitoring Site Visit Guides (Forms M-7C to M-7D)	15	1.0	6.00	90.00
HS/PRS Site Visit Guide (Form M-7E)	30	1.0	6.00	180.00
Voluntary Agency Site Visit Guide (Form M-7F)	5	1.0	8.00	40.00
Program Staff Questionnaires (Form M-11A-K)	756	1.0	1.00	756.00
Secure Detention Officer Questionnaire (Form M-11L)	1	1.0	1.00	1.00
Long Term Foster Care Home Finder Questionnaire (Form M-11M)	15	1.0	1.00	15.00
Long Term Foster Care Independent Living Life Skills Staff Questionnaire (Form M-11N)	15	1.0	1.00	15.00
Long Term Foster Care Foster Parent Questionnaire (Form M-11O)	30	1.0	0.75	22.50
UC Questionnaires (Forms M-12A, M-12B, and M-12E)	460	1.0	0.50	230.00
Long Term Foster Care Client Questionnaire (M-12C)	75	1.0	0.50	37.50
Secure Client Questionnaire (Form M-12D)	5	1.0	0.50	2.50
Home Study and Post-Release Services Director Questionnaire (Form M-13A)	30	1.0	1.00	30.00
Home Study and Post-Release Services Caseworker Questionnaire (Form M-13B)	90	1.0	1.00	90.00
Legal Service Provider Questionnaire (Form M-13C)	93	1.0	1.00	93.00
Long Term Foster Care Legal Service Provider Questionnaire (Form M-13D)	15	1.0	0.75	11.25
Case Coordinator Questionnaire (Form M-13E)	108	1.0	1.00	108.00
Estimated Annual Burden Hours Total				6,927.95

ESTIMATED BURDEN HOURS AND OPPORTUNITY COSTS FOR CONTRACTOR MONITORS

Information collection title	Annual number of respondents	Annual number of responses per respondent	Average burden hours per response	Annual total burden hours
Corrective Action Report (Form M-1)	4	25.0	22.00	2,200.00
Site Visit and Remote Monitoring Site Visit Guides (Forms M-7A to M-7B)	4	7.0	29.00	812.00
LTFC Site Visit and LTFC Remote Monitoring Site Visit Guides (Forms M-7C to M-7D)	4	1.0	21.00	84.00
HS/PRS Site Visit Guide (Form M-7E)	4	2.0	21.00	168.00
Voluntary Agency Site Visit Guide (Form M-7F)	4	0.4	28.00	44.80
Personnel File Checklist (Form M-10A)	4	31.0	1.00	124.00
Supplement to Personnel File Checklist (Form M-10B)	4	54.0	1.00	216.00
Home Study and Post-Release Services Personnel File Checklist (Form M-10C)	4	6.0	1.00	24.00
Long Term Foster Care Foster Parent Checklist (Form M-10D)	4	2.0	0.50	4.00
Program Staff Questionnaires (Form M-11A-K)	4	54.0	1.00	216.00
Secure Detention Officer Questionnaire (Form M-11L)	4	0.1	1.00	0.40
Long Term Foster Care Home Finder Questionnaire (Form M-11M)	4	1.0	1.00	4.00
Long Term Foster Care Independent Living Life Skills Staff Questionnaire (Form M-11N)	4	1.0	1.00	4.00
Long Term Foster Care Foster Parent Questionnaire (Form M-11O)	4	2.0	0.75	6.00
UC Questionnaires (Forms M-12A, M-12B, and M-12E)	4	33.0	0.50	66.00
Long Term Foster Care Client Questionnaire (M-12C)	4	5.0	0.50	10.00
Secure Client Questionnaire (Form M-12D)	4	0.4	0.50	0.80
Home Study and Post-Release Services Director Questionnaire (Form M-13A)	4	2.0	0.50	4.00
Home Study and Post-Release Services Caseworker Questionnaire (Form M-13B)	4	6.0	1.00	24.00
Legal Service Provider Questionnaire (Form M-13C)	4	7.0	1.00	28.00

ESTIMATED BURDEN HOURS AND OPPORTUNITY COSTS FOR CONTRACTOR MONITORS—Continued

Information collection title	Annual number of respondents	Annual number of responses per respondent	Average burden hours per response	Annual total burden hours
Long Term Foster Care Legal Service Provider Questionnaire (Form M-13D) .....	4	1.0	0.75	3.00
Case Coordinator Questionnaire (Form M-13E) .....	4	8.0	1.00	32.00
Monitoring Visit (Form M-14) .....	4	8.0	0.50	16.00
Monitoring Schedule (Form M-15) .....	4	0.3	0.33	0.40
Estimated Annual Burden Hours Total .....				4,091.40

*Authority:* 6 U.S.C. 279; 8 U.S.C. 1232; Flores v. Reno Settlement Agreement, No. CV85-4544-RJK (C.D. Cal. 1996).

**Mary B. Jones,**

*ACF/OPRE Certifying Officer.*

[FR Doc. 2021-18660 Filed 8-30-21; 8:45 am]

**BILLING CODE 4184-45-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Administration for Children and Families**

**Submission for OMB Review; Legal Services for Unaccompanied Children (0970-0565)**

**AGENCY:** Office of Refugee Resettlement, Administration for Children and Families, Department of Health and Human Services.

**ACTION:** Request for public comment.

**SUMMARY:** The Office of Refugee Resettlement (ORR), Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS), is proposing to continue to collect information that will allow the Unaccompanied Children (UC) Program to provide legal services to UC. These information collections were originally approved under emergency approval for 6 months. This request is to continue data collection. This is a time sensitive request because all of these forms are already in use and must continue to be in use in order for the UC Program to meet its statutory obligations.

**DATES:** *Comments due within 30 days of publication.* OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication.

**ADDRESSES:** Written comments and recommendations for the proposed

information collection should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function. This is a time sensitive request because many of these forms are already in use and must continue to be in use in order for the UC Program to meet its statutory obligations.

**SUPPLEMENTARY INFORMATION:**

*Description:* ORR received several comments on this information collection in response to the **Federal Register** Notice published on February 18, 2021, (86 FR 10082) and has provided responses to those comments in its final submission to OMB. UC Path is critical to program operations, and it is important that rollout of the new system not be delayed. Therefore, the below description details what will be included in the initial launch of the UC Path case management system and revisions based on public comments will be made after initial launch. ORR plans to conduct a deliberative review of commenters’ suggestions and concerns and submit a request for revisions to this information collection request in January 2022. The upcoming information collection request will also include revisions based on feedback from UC Path system users (*i.e.*, ORR grantee, contractor, and federal staff). The components of this information request include:

1. Legal Service Provider List for UC in ORR Care (Form LRG-5/5s): This instrument is provided to UC by their case manager. The instrument contains a list of legal services providers available to UC. UC initial and sign the instrument upon admission and release of ORR custody to acknowledge receipt of documents contained in ORR’s Legal Resource Guide.

2. Request for a Flores Bond Hearing (Form LRG-7/7s): This instrument is provided to UC placed by their case manager. The instrument is always

provided to UC placed in a restrictive setting (secure, staff secure, and residential treatment center facilities) and to UC placed in other types of facilities upon request. UC may use this instrument to request or withdraw a request for a *Flores* bond hearing.

3. Motion to Request a Bond Hearing—Secure or Staff Secure Custody (Form LRG-8A): This instrument is completed by case managers upon receipt of a *Request for a Flores Bond Hearing* for a UC in secure or staff secure custody and provided to ORR. ORR files the motion with the local immigration court.

4. Motion to Request a Bond Hearing—Non-Secure Custody (Form LRG-8B): This instrument is completed by case managers upon receipt of a *Request for a Flores Bond Hearing* for a UC placed in a non-secure program (*e.g.*, shelter, foster care) and provided to ORR. ORR files the motion with the local immigration court.

5. Request for Specific Consent to Juvenile Court Jurisdiction (Form L-1): This instrument is used by legal service providers and attorneys of record to request specific consent from ORR in cases where they are seeking Special Immigrant Juvenile legal relief for their UC client and are also seeking to invoke the jurisdiction of a state court to determine or alter the UC’s custody status or placement.

6. Specific Consent Request Case Summary (Form L-2): This instrument is completed by ORR Federal Field Specialists (FFS) when ORR receives a request for specific consent. FFS provide case information that will allow the ORR Director to make an informed decision on whether to grant specific consent.

7. Notice of Attorney Representation (Form L-3): This instrument is completed by attorneys of record for UC to notify ORR of the purpose of legal representation and the representation timeframe. ORR uses this instrument to ensure that case updates are provided to attorneys of record. This instrument may also be used by attorneys of record

when requesting a copy of their client’s case file.

8. UC Legal Information (Form L–4): This instrument is used by case managers to document, as applicable, referrals to the Office on Trafficking in Persons, meetings between the UC and their legal service provider or attorney of record, the provision of ORR’s Legal Resource Guide to the UC, information about the UC’s legal service provider or attorney of record, immigration and administrative hearings, and provision of the *Notice of Placement in a Restrictive Setting* to the UC. The instrument also includes an area to upload legal documents.

9. Legal Service Provider Record (Form L–6): This instrument is used by

case managers to create a record containing certain information and documents that ORR makes accessible to ORR-funded legal service providers without requiring a formal records request.

10. Motion for Change of Venue (Form L–7): This instrument is used by case managers to file a motion for change of venue when a UC is transferred or discharged to a new immigration court jurisdiction.

11. Post Legal Status Plan (Form L–8): This instrument is used by case managers to create and obtain FFS Supervisor approval for a plan for UC expected to obtain legal status, at which time the UC must be released from ORR custody.

Proposed revisions:

- Replace the term “unaccompanied alien child (UAC)” with “unaccompanied child (UC)” throughout the instruments in this collection. Note that the screenshots of UC Path instruments attached to this memo do not reflect this change because it has not yet been developed in the system. However, the revision in terminology will be made before the system is launched.

- Remove the term “alien” from the title of this information collection and revise it to read “Legal Services for Unaccompanied Children.”

*Respondents:* ORR grantee and contractor staff, UC, parents/legal guardians of UC, attorneys of record, and legal service providers.

ANNUAL BURDEN ESTIMATES

Instrument	Annual total number of respondents	Annual total number of responses per respondent	Average burden minutes per response	Annual total burden hours
Legal Service Provider List for UC in ORR Care (Form LRG–5/5s) .....	216	556.0	15	30,024
Request for a Flores Bond Hearing (Form LRG–7/7s) .....	216	0.2	10	7
Motion to Request a Bond Hearing—Secure or Staff Secure Custody (Form LRG–8A) .....	8	3.0	10	4
Motion to Request a Bond Hearing—Non-Secure Custody (Form LRG–8B) .....	208	0.1	10	3
Request for Specific Consent to Juvenile Court Jurisdiction (Form L–1) .....	40	1.0	15	10
Specific Consent Request Case Summary (Form L–2) .....	216	0.2	20	14
Notice of Attorney Representation (Form L–3) .....	13,000	1.0	15	3,250
UC Legal Information (Form L–4) .....	216	241.0	60	52,056
Legal Service Provider Record (Form L–6) .....	216	241.0	5	4,338
Change of Venue (Form L–7) .....	216	208.0	10	7,488
Post Legal Status Plan (Form L–8) .....	216	24.0	15	1,296
Estimated Annual Burden Hours Total .....				98,490

*Authority:* 6 U.S.C. 279; 8 U.S.C. 1232; *Flores v. Reno Settlement Agreement*, No. CV85–4544–RJK (C.D. Cal. 1996).

**Mary B. Jones,**  
*ACF/OPRE Certifying Officer.*  
 [FR Doc. 2021–18658 Filed 8–30–21; 8:45 am]  
**BILLING CODE 4184–45–P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Administration for Community Living**

**Intent To Award a Supplement for the Lifespan Respite Program: Special Projects To Strengthen Program Development, Implementation and Sustainability**

**ACTION:** Notice.

**SUMMARY:** The Administration for Community Living (ACL) announces the intent to award a single-source supplement to the current cooperative

agreement held by the Center for Health Policy Development.

**FOR FURTHER INFORMATION CONTACT:** For further information or comments regarding this program supplement, contact Lori Stalbaum, U.S. Department of Health and Human Services, Administration for Community Living, Administration on Aging, Office of Supportive and Caregiver Services; telephone (202) 795–7444; email [lori.stalbaum@acl.hhs.gov](mailto:lori.stalbaum@acl.hhs.gov).

**SUPPLEMENTARY INFORMATION:** The primary objective of this project is to complement the work of the Lifespan Respite Technical Assistance and Resource Center (TARC) funded in FY 2020 (42 U.S.C. 300ii–2: National Lifespan Respite Resource Center) and, based on the forthcoming National Family Caregiving Strategy, focus on improving access to respite services, workforce capacity, and the role of natural supports, which will be a likely focus of attention nationwide following the dissemination of the Family

Caregiving Advisory Council’s National Family Caregiving Strategy.

1. Workforce Development: Develop, test and scale a respite workforce recruitment, training and retention program to better meet the respite needs of culturally diverse, urban, suburban, rural, or frontier families, particularly in light of the impact of the COVID–19 pandemic on the workforce;

2. State-based respite planning: Develop and field test a state-based framework and roadmap for respite system planning and development, which ties to the forthcoming National Family Caregiving Strategy; and

3. Natural supports: Enhance approaches to help caregivers and families develop or strengthen their own natural support systems to include respite and other supports

The original FY 2020 award was in the amount of \$562,737 for a three-year fully funded project. The administrative supplement for FY 2021 will be in the amount of \$183,000, bringing the total award for the project to \$745,737.

The additional funding will not be used to begin new projects, but to expand existing activities under the existing grant. Specifically, supplemental funds will be used to:

1. Increase the number of states that will participate in the upcoming pilot project to field test a competency-based, entry-level respite provider-training curriculum and recruitment campaign. This also includes the option to request additional funding for increased administrative and management oversight; the provision of stipends, if necessary; and increased technical assistance to the pilot states.

2. Enhance documentation and reporting on the pilot project, which could include reports, journal articles, or blogs on pre- and post-pilot work. For example, topics may include, but are not limited to:

a. Detailing the methodology for developing the core competencies being piloted from conception to pilot implementation; and

b. Documenting state successes as a part of the pilot program and/or detailing findings, positive or negative, learned from the one-year pilot.

3. Expand/enhance the respite care tracking (mapping) system that will be available to state program policy personnel to allow them ready access to the findings of the state scans of respite programs and services and build on case studies being developed under this grant program.

4. Expand and enhance the planned communication and information dissemination strategy to reach larger audiences of potential users of the materials developed under this project.

*Program Name:* Lifespan Respite Care Program: Promoting Best Practices, Building State Capacity.

*Recipient:* Center for Health Policy Development.

*Period of Performance:* The supplement award will be issued in the second year of this three-year, fully funded, project scheduled to be completed on September 29, 2023.

*Total Award Amount:* \$562,737 in FY 2020.

*Award Type:* Cooperative Agreement Supplement.

*Statutory Authority:* The statutory authority for grants under this program announcement is contained in Title XXIX of the Public Health Service Act (42 U.S.C. 300ii-1: Lifespan Respite Care Grants and Cooperative Agreements), as amended by the Public Health Service Act Public Law 109-442. (Catalog of Federal Domestic Assistance 93.072).

*Basis for Award:* The Lifespan Respite Care Program: Special Projects to

Strengthen Program Development, Implementation and Sustainability is currently funded to carry out the objectives of this project for the period of September 30, 2020 through September 29, 2023. Since project implementation began in late 2020, the grantee has accomplished a great deal. The supplement will enable the grantee to carry their work even further, reaching more states with workforce development assistance, information dissemination, direct technical assistance and tracking of state innovations and advancements in respite service design and delivery. The additional funding will not be used to begin new projects or activities.

Dated: August 25, 2021.

**Alison Barkoff,**

*Acting Administrator and Assistant Secretary for Aging.*

[FR Doc. 2021-18748 Filed 8-30-21; 8:45 am]

**BILLING CODE 4154-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA-2021-N-0762]

#### Revocation of Authorization of Emergency Use of Certain Medical Devices During COVID-19; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the revocation of 15 Emergency Use Authorizations (EUAs) (the Authorizations), including 12 Authorizations for decontamination systems for personal protective equipment, 1 Authorization for a bioburden reduction system for personal protective equipment, and 2 umbrella Authorizations for certain imported, non-NIOSH (National Institute of Occupational Safety and Health)-approved disposable respirators. FDA revoked the Authorizations for the decontamination and bioburden reduction systems for personal protective equipment on June 30, 2021, under the Federal Food, Drug, and Cosmetic Act (FD&C Act) as requested by each Authorization holder. FDA revoked the umbrella Authorizations issued to manufacturers and other stakeholders of imported non-NIOSH approved filtering facepiece respirators manufactured in China (China FFR Authorization), and to manufacturers and other stakeholders of imported non-NIOSH approved filtering facepiece

respirators (Imports FFR Authorization) on June 30, 2021, under the FD&C Act. The revocations, which each include an explanation of the reasons for the revocation, are reprinted in this document.

**DATES:** The Authorizations for the decontamination and bioburden reduction systems are revoked as of June 30, 2021. The Authorizations for the China FFR Authorization and Imports FFR Authorization are revoked as of July 6, 2021.

**ADDRESSES:** Submit written requests for a single copy of the revocations to the Office of Counterterrorism and Emerging Threats, Food and Drug Administration, 10903 New Hampshire Ave, Bldg. 1, Rm. 4338, Silver Spring, MD 20993-0002. Send one self-addressed adhesive label to assist that office in processing your request or include a Fax number to which the revocation may be sent. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the revocations.

#### FOR FURTHER INFORMATION CONTACT:

Michael Mair, Office of Counterterrorism and Emerging Threats, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 1, Rm. 4340, Silver Spring, MD 20993-0002, 301-796-8510 (this is not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Section 564 of the FD&C Act (21 U.S.C. 360bbb-3) allows FDA to strengthen the public health protections against biological, chemical, nuclear, and radiological agents. Among other things, section 564 of the FD&C Act allows FDA to authorize the use of an unapproved medical product or an unapproved use of an approved medical product in certain situations. Notice of the issuance of the Authorizations was published in the **Federal Register** as follows, as required by section 564(h)(1) of the FD&C Act: (1) Published June 5, 2020 (85 FR 34638) for Imports FFR Authorization (Certain Imported, Non-NIOSH-Approved Disposable Filtering Facepiece Respirators) issued March 24, 2020; China FFR Authorization (Certain Non-NIOSH-Approved Disposable Filtering Facepiece Respirators Manufactured in China) issued April 3, 2020; and STERIS Corporation for the STERIS Sterilization Systems (STERIS V-PRO 1 Plus, maX, and maX2 Low Temperature Sterilization Systems) issued April 9, 2020; (2) published July 14, 2020 (85 FR 42407) for Advanced Sterilization Products, Inc. for the ASP STERRAD Decontamination Systems issued April 11, 2020; Stryker

Instruments for the STERIZONE VP4 Sterilizer issued April 14, 2020; Sterilucent, Inc. for the Sterilucent HC 80TT Hydrogen Peroxide Sterilizer issued April 20, 2020; Duke University Health System for the Duke Decontamination System issued May 7, 2020; (3) published November 20, 2020, (85 FR 74346) for STERIS Corporation for the AMSCO Medium Steam Sterilizers + the STERIS STEAM Decon Cycle issued May 21, 2020; Stryker Sustainability Solutions (SSS) for the SSS VHP N95 Respirator Decontamination System issued May 27, 2020; Technical Safety Services LLC for the 20-CS Decontamination System issued June 13, 2020; MSU for the MSU Decontamination System issued July 24, 2020; (4) published April 23, 2021, (86 FR 21749) for Roxby Development, LLC for the Zoe-Ann Decontamination System issued October 20, 2020; 3B Medical, Inc. for the Lumin LM3000 Bioburden Reduction UV System issued December 3, 2020; Ecolab Inc. for the Bioquell Technology System issued December 4, 2020; and Yale New Haven Health System for the Yale New Haven Health FILTERING FACEPIECE RESPIRATOR Decontamination System issued January 15, 2021.

Any subsequent reissuances of the Authorizations are listed in the revocation letters reprinted at the end of this document.

The authorization of a device for emergency use under section 564 of the FD&C Act may, pursuant to section 564(g)(2) of the FD&C Act, be revoked when the criteria under section 564(c) of the FD&C Act for issuance of such authorization are no longer met (section 564(g)(2)(B) of the FD&C Act), or other circumstances make such revocation appropriate to protect the public health or safety (section 564(g)(2)(C) of the FD&C Act).

## II. EUA Revocation Criteria Met

On June 30, 2021, FDA revoked the China FFR Authorization and Imports FFR Authorization. FDA reviewed the totality of scientific evidence available, including data provided by device manufacturers, distributors, Group Purchasing Organizations, FDA Imports database, healthcare organizations, and Federal/State stockpiles. Based on the change in the Centers for Disease Control and Prevention (CDC) recommendations, the increase in availability of NIOSH-approved respirators, the Occupational Safety and Health Administration (OSHA) Emergency Temporary Standard (ETS) requirements, and information provided

by healthcare organizations and others,<sup>1</sup> FDA has concluded that the known and potential benefits of these respirators, when used for such use, no longer outweigh the known and potential risks of continued use, and pursuant to section 564(g)(2)(B), the criteria under section 564(c) of the FD&C Act for issuance of the Authorizations are no longer met. In addition, based on the same information, revocation of the Authorizations is appropriate to protect the public health and safety pursuant to section 564(g)(2)(C) of the FD&C Act.

On June 30, 2021, FDA revoked the Authorizations for decontamination and bioburden reductions systems pursuant to requests from the following entities on the following dates:

- April 9, 2021, from Duke for the Duke Decontamination System;
- April 15, 2021, from Sterilucent, Inc. for the Sterilucent HC 80TT Hydrogen Peroxide Sterilizer;
- April 16, 2021, from Yale for the Yale New Haven Health FFR Decontamination System;
- May 13, 2021, from STERIS Corporation for the STERIS Sterilization Systems, as well as the AMSCO Medium Steam Sterilizers + the STERIS STEAM Decon Cycle;
- May 25, 2021, from Stryker Sustainability Solutions (SSS) for the SSS VHP N95 Respirator Decontamination System;
- May 27, 2021 from MSU for the MSU Decontamination System;
- June 4, 2021, from Advanced Sterilization Products, Inc. for the ASP STERRAD Decontamination Systems;
- June 7, 2021, from Technical Safety Services LLC for the 20-CS Decontamination System;

<sup>1</sup> Non-NIOSH approved FFRs were previously recommended by CDC as a crisis capacity strategy when there was a severe shortage of NIOSH-approved FFRs available for healthcare personnel (HCP). Available information now shows an increase in the current and projected U.S. supply of NIOSH-approved respirators, including N95s ([https://www.cdc.gov/niosh/npptl/topics/respirators/disp\\_part/N95list1.html](https://www.cdc.gov/niosh/npptl/topics/respirators/disp_part/N95list1.html)). As such, on April 9 and May 27, 2021, CDC updated their recommendations to reflect that healthcare facilities should return to conventional capacity strategies and thus CDC no longer recommends the use of non-NIOSH-approved FFRs. On May 27, 2021, FDA also recommended that healthcare facilities and HCP “transition away from crisis capacity conservation strategies, such as using non-NIOSH-approved disposable respirators, including imported respirators such as KN95s” (<https://www.fda.gov/medical-devices/letters-health-care-providers/update-fda-recommends-transition-use-non-niosh-approved-and-decontaminated-disposable-respirators>). In addition, on June 21, 2021 (86 FR 32376), OSHA issued an Emergency Temporary Standard (ETS) to adequately address the hazard of COVID-19 for HCP. The ETS requires, among other things, healthcare employers to provide NIOSH-approved or FDA-authorized respirators for healthcare workers potentially exposed to COVID-19.

- June 7, 2021, from Roxby Development, LLC for the Zoe-Ann Decontamination System;
- June 7, 2021, from 3B Medical, Inc. for the Lumin LM3000 Bioburden Reduction UV System;
- June 7, 2021, from Ecolab Inc. for the Bioquell Technology System; and
- June 8, 2021, from Stryker Instruments for the STERIZONE VP4 Sterilizer.

Because these entities notified FDA that they have ceased operations and associated activities and request withdrawal of their respective Authorizations, and consistent with FDA’s belief that the known and potential benefits of these systems, when used for their emergency use, no longer outweigh the known and potential risks of such use, FDA has determined that it is appropriate to revoke the Authorizations because the criteria for issuance of an EUA under section 564(c)(2)(B) of the Act are no longer met. Moreover, based on the same information, FDA has concluded under section 564(g)(2)(C) of the FD&C Act that other circumstances make revocation appropriate to protect the public health or safety.

## III. Electronic Access

An electronic version of this document and the full text of the revocations are available on the internet at <https://www.regulations.gov/> and <https://www.fda.gov/emergency-preparedness-and-response/mcm-legal-regulatory-and-policy-framework/emergency-use-authorization-archived-information#covid19>.

## IV. The Revocations

Having concluded that the criteria for revocation of the Authorizations under section 564(g)(2)(B) and 564(g)(2)(C) of the FD&C Act are met, FDA has revoked the following Authorizations:

- China FFR Authorization;
- Imports FFR Authorization;
- Duke’s Duke Decontamination System;
- Sterilucent, Inc.’s Sterilucent HC 80TT Hydrogen Peroxide Sterilizer;
- Yale’s Yale New Haven Health FFR Decontamination System;
- STERIS Corporation’s STERIS Sterilization Systems, as well as the AMSCO Medium Steam Sterilizers + the STERIS STEAM Decon Cycle;
- Stryker Sustainability Solutions’s SSS VHP N95 Respirator Decontamination System;
- MSU’s MSU Decontamination System;
- Advanced Sterilization Products, Inc.’s ASP STERRAD Decontamination Systems;

- Technical Safety Services LLC's 20-CS Decontamination System;
- Roxby Development, LLC's Zoe-Ann Decontamination System;
- 3B Medical, Inc.'s Lumin LM3000 Bioburden Reduction UV System;

- Ecolab Inc.'s Bioquell Technology System; and
- Stryker Instruments's STERIZONE VP4 Sterilizer.

The revocations in their entirety follow and provide an explanation of

the reasons for revocation, as required by section 564(h)(1) of the FD&C Act.

BILLING CODE 4164-01-P



June 30, 2021

To: Manufacturers of Non-NIOSH Approved Filtering Facepiece Respirators Manufactured in China;  
Health Care Personnel;  
Hospital Purchasing Departments and Distributors;  
Importers and Commercial Wholesalers; and  
Any Other Stakeholders

This letter is to revoke the Emergency Use Authorization (EUA) issued April 3, 2020 and revised and reissued on May 7, 2020, June 6, 2020, and October 15, 2020, for emergency use of non-National Institute for Occupational Safety and Health (NIOSH) approved respirators manufactured in China<sup>1</sup> in healthcare settings by healthcare personnel (HCP)<sup>2</sup>, when used in accordance with Centers for Disease Control and Prevention (CDC) recommendations to prevent HCP exposure to pathogenic biological airborne particulates during filtering facepiece respirator (FFR) shortages resulting from the COVID-19 outbreak. The revocation is effective July 6, 2021.

The authorization of a device for emergency use under section 564 of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. 360bbb-3) may be revoked when the circumstances described under section 564(b)(1) of the Act no longer exist (section 564(g)(2)(A) of the Act), the criteria under section 564(c) of the Act for issuance of such authorization are no longer met (section 564(g)(2)(B) of the Act), or other circumstances make such revocation appropriate to protect the public health or safety (section 564(g)(2)(C) of the Act).

FDA has reviewed the totality of scientific evidence available, including data provided by device manufacturers, distributors, Group Purchasing Organizations (GPOs), FDA Imports database, healthcare organizations, and federal/state stockpiles. Based on the change in CDC recommendations, the increase in availability of NIOSH-approved respirators, the Occupational Safety and Health Administration (OSHA) Emergency Temporary Standard (ETS) requirements, and information provided by healthcare organizations and others,<sup>3</sup> FDA has concluded that the

<sup>1</sup> [Umbrella EUA: Non-NIOSH Approved Disposable Filtering Facepiece Respirators Manufactured in China](#)

<sup>2</sup> Healthcare personnel refers to all paid and unpaid persons serving in healthcare settings who have the potential for direct or indirect exposure to patients or infectious materials, including body substances (e.g., blood, tissue, and specific body fluids); contaminated medical supplies, devices, and equipment; contaminated environmental surfaces; or contaminated air. These healthcare personnel include, but are not limited to, emergency medical service personnel, nurses, nursing assistants, physicians, technicians, therapists, phlebotomists, pharmacists, dentists and dental hygienists, students and trainees, contractual staff not employed by the healthcare facility, and persons not directly involved in patient care, but who could be exposed to infectious agents that can be transmitted in the healthcare setting (e.g., clerical, dietary, environmental services, laundry, security, engineering and facilities management, administrative, billing, and volunteer personnel).

<sup>3</sup> Non-NIOSH approved FFRs were previously recommended by CDC as a crisis capacity strategy when there was a severe shortage of NIOSH-approved FFRs available for HCP. Available information now shows an increase in the current and projected U.S. supply of [NIOSH-approved respirators, including N95s](#). As such, on April 9 and May 27, 2021, CDC updated their recommendations to reflect that healthcare facilities should return to conventional capacity strategies and thus CDC no longer recommends the use of non-NIOSH-approved FFRs. On May 27, 2021, FDA also recommended that healthcare facilities and HCP "transition away from crisis capacity conservation strategies, such as using non-NIOSH-approved disposable respirators, including imported respirators such as KN95s." In addition, on June 21, 2021, OSHA issued an

known and potential benefits of these respirators, when used for such use, no longer outweigh the known and potential risks of continued use, and pursuant to section 564(g)(2)(B), the criteria under section 564(c) of the Act for issuance of the EUA are no longer met. In addition, based on the same information, revocation of the EUA is appropriate to protect the public health and safety pursuant to section 564(g)(2)(C) of the Act.


Accordingly, pursuant to section 564(g)(2)(B) and 564(g)(2)(C) of the Act, FDA revokes the EUA.

Effective on July 6, 2021, which is 15 days after the effective date of the OSHA ETS, and the date by which compliance by healthcare facilities is required, the devices listed in Appendix A as covered by the October 15, 2020 EUA are not authorized by FDA for use as respirators in healthcare settings by HCP to prevent HCP exposure to pathogenic biological airborne particulates during FFR shortages resulting from the COVID-19 outbreak, and therefore cannot be legally introduced into interstate commerce with that intended use.

FDA encourages manufacturers and other stakeholders to inform their customers and HCP, as applicable, of this revocation. Manufacturers, HCP, hospital purchasing departments, distributors, importers, commercial wholesalers, states, and any other stakeholders who have questions about options to redistribute or recondition their supply of non-NIOSH-approved respirators that will not be authorized effective July 6, 2021, may reference the publicly posted frequently asked questions (FAQ) regarding this revocation letter or contact FDA at [CDRH-NonDiagnosticEUA-Templates@fda.hhs.gov](mailto:CDRH-NonDiagnosticEUA-Templates@fda.hhs.gov).

Notice of this revocation will be published in the *Federal Register*, pursuant to section 564(h)(1) of the Act.

Sincerely,

  
\_\_\_\_\_  
RADM Denise M. Hinton  
Chief Scientist  
Food and Drug Administration

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Emergency Temporary Standard (ETS) to adequately address the hazard of COVID-19 for HCP. The ETS requires, among other things, healthcare employers to provide NIOSH-approved or FDA-authorized respirators for healthcare workers potentially exposed to COVID-19.



June 30, 2021

To: Manufacturers of Imported, Non-NIOSH Approved Filtering Facepiece Respirators;  
Health Care Personnel;  
Hospital Purchasing Departments and Distributors;  
Importers and Commercial Wholesalers; and  
Any Other Stakeholders

This letter is to revoke the Emergency Use Authorization (EUA) issued March 24, 2020 and revised and reissued on March 28, 2020, June 6, 2020, and March 24, 2021, for emergency use of imported non-National Institute for Occupational Safety and Health (NIOSH) approved respirators<sup>1</sup> in healthcare settings by healthcare personnel (HCP)<sup>2</sup>, when used in accordance with Centers for Disease Control and Prevention (CDC) recommendations to prevent HCP exposure to pathogenic biological airborne particulates during filtering facepiece respirator (FFR) shortages resulting from the COVID-19 outbreak. The revocation is effective July 6, 2021.

The authorization of a device for emergency use under section 564 of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. 360bbb-3) may be revoked when the circumstances described under section 564(b)(1) of the Act no longer exist (section 564(g)(2)(A) of the Act), the criteria under section 564(c) of the Act for issuance of such authorization are no longer met (section 564(g)(2)(B) of the Act), or other circumstances make such revocation appropriate to protect the public health or safety (section 564(g)(2)(C) of the Act).

FDA has reviewed the totality of scientific evidence available, including data provided by device manufacturers, distributors, Group Purchasing Organizations (GPOs), FDA Imports database, healthcare organizations, and federal/state stockpiles. Based on the change in CDC recommendations, the increase in availability of NIOSH-approved respirators, the Occupational Safety and Health Administration (OSHA) Emergency Temporary Standard (ETS) requirements, and information provided by healthcare organizations and others,<sup>3</sup> FDA has concluded that the

<sup>1</sup> Umbrella EUA: Imported, Non-NIOSH Approved Disposable Filtering Facepiece Respirators.

<sup>2</sup> Healthcare personnel refers to all paid and unpaid persons serving in healthcare settings who have the potential for direct or indirect exposure to patients or infectious materials, including body substances (e.g., blood, tissue, and specific body fluids); contaminated medical supplies, devices, and equipment; contaminated environmental surfaces; or contaminated air. These healthcare personnel include, but are not limited to, emergency medical service personnel, nurses, nursing assistants, physicians, technicians, therapists, phlebotomists, pharmacists, dentists and dental hygienists, students and trainees, contractual staff not employed by the healthcare facility, and persons not directly involved in patient care, but who could be exposed to infectious agents that can be transmitted in the healthcare setting (e.g., clerical, dietary, environmental services, laundry, security, engineering and facilities management, administrative, billing, and volunteer personnel).

<sup>3</sup> Non-NIOSH approved FFRs were previously recommended by CDC as a crisis capacity strategy when there was a severe shortage of NIOSH-approved FFRs available for HCP. Available information now shows an increase in the current and projected U.S. supply of NIOSH-approved respirators, including N95s. As such, on April 9 and May 27, 2021, CDC updated their recommendations to reflect that healthcare facilities should return to conventional capacity strategies and thus CDC no longer recommends the use of non-NIOSH-approved FFRs. On May 27, 2021, FDA also recommended that healthcare facilities and HCP "transition away from crisis capacity conservation strategies, such as using non-NIOSH-approved disposable respirators, including imported respirators such as KN95s." In addition, on June 21, 2021, OSHA issued an Emergency Temporary Standard (ETS) to adequately address the hazard of COVID-19 for HCP. The ETS requires, among other things, healthcare employers to provide NIOSH-approved or FDA-authorized respirators for healthcare workers potentially exposed to COVID-19.



known and potential benefits of these respirators, when used for such use, no longer outweigh the known and potential risks of continued use, and pursuant to section 564(g)(2)(B), the criteria under section 564(c) of the Act for issuance of the EUA are no longer met. In addition, based on the same information, revocation of the EUA is appropriate to protect the public health and safety pursuant to section 564(g)(2)(C) of the Act.

Accordingly, pursuant to section 564(g)(2)(B) and 564(g)(2)(C) of the Act, FDA revokes the EUA.

Effective on July 6, 2021, which is 15 days after the effective date of the OSHA ETS, and the date by which compliance by healthcare facilities is required, the devices listed in Exhibit 1 as covered by the March 24, 2021 EUA are not authorized by FDA for use as respirators in healthcare settings by HCP to prevent HCP exposure to pathogenic biological airborne particulates during FFR shortages resulting from the COVID-19 outbreak, and therefore cannot be legally introduced into interstate commerce with that intended use.

FDA encourages manufacturers and other stakeholders to inform their customers and HCP, as applicable, of this revocation. Manufacturers, HCP, hospital purchasing departments, distributors, importers, commercial wholesalers, states, and any other stakeholders who have questions about options to redistribute or recondition their supply of non-NIOSH-approved respirators that will not be authorized effective July 6, 2021, may reference the publicly posted frequently asked questions (FAQ) regarding this revocation letter or contact FDA at [CDRH-NonDiagnosticEUA-Templates@fda.hhs.gov](mailto:CDRH-NonDiagnosticEUA-Templates@fda.hhs.gov).

Notice of this revocation will be published in the *Federal Register*, pursuant to section 564(h)(1) of the Act.

Sincerely,

/s/  
RADM Denise M. Hinton  
Chief Scientist  
Food and Drug Administration



June 30, 2021

Monte Brown, MD  
Vice President of Administration and Secretary  
Duke University Health System  
107B Davison Building  
Durham, NC 27710

**Re: Revocation of EUA**

Dear Dr. Brown:

This letter is in response to Duke University Health System's (Duke's) request dated April 9, 2021, that the U.S. Food and Drug Administration (FDA) withdraw the Emergency Use Authorization (EUA) for the Duke Decontamination System for Decontamination and Reuse of N95 Respirators with Hydrogen Peroxide Vapor (hereafter referred to as "Duke Decontamination System") issued on May 7, 2020, and revised and reissued on June 6, 2020, and January 21, 2021. Duke will no longer make the Duke Decontamination System available for the authorized emergency use. In its request, Duke confirmed that it has ceased operation of all Duke Decontamination System sites as well as associated activities.

The authorization of a device for emergency use under section 564 of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. 360bbb-3) may be revoked when the circumstances described under section 564(b)(1) of the Act no longer exist (section 564(g)(2)(A) of the Act), the criteria under section 564(c) of the Act for issuance of such authorization are no longer met (section 564(g)(2)(B) of the Act), or other circumstances make such revocation appropriate to protect the public health or safety (section 564(g)(2)(C) of the Act). Because Duke has notified FDA that it has ceased operations and associated activities and requests withdrawal of the authorization, and consistent with FDA's belief that the known and potential benefits of this system, when used for its emergency use, no longer outweigh the known and potential risks of such use, FDA has determined that it is appropriate to revoke this authorization because the criteria for issuance of an EUA under section 564(c)(2)(B) of the Act are no longer met. Moreover, based on the same information, FDA has concluded under section 564(g)(2)(C) of the Act that other circumstances make revocation of this EUA appropriate to protect the public health or safety.

Accordingly, FDA hereby revokes Duke's EUA for the Duke Decontamination System, pursuant to sections 564(g)(2)(B) and 564(g)(2)(C) of the Act. As of the date of this letter, the Duke Decontamination System is no longer authorized for emergency use by FDA.

FDA encourages Duke to inform its customers of this revocation.

Notice of this revocation will be published in the *Federal Register*, pursuant to section 564(h)(1) of the Act.

Page 2 – Dr. Brown, Duke University Health System

Sincerely,

/s/

\_\_\_\_\_  
RADM Denise M. Hinton  
Chief Scientist  
Food and Drug Administration



June 30, 2021

Peter Kalkbrenner  
Sterilucent, Inc.  
1400 Marshall Street NE  
Minneapolis, MN 55413

**Re: Revocation of EUA**

Dear Mr. Kalkbrenner:

This letter is in response to Sterilucent, Inc.'s (Sterilucent's) request dated April 15, 2021, that the U.S. Food and Drug Administration (FDA) withdraw the Emergency Use Authorization (EUA) for the Sterilucent HC 80TT Hydrogen Peroxide Sterilizer (hereafter referred to as "Sterilucent Decontamination System") issued on April 20, 2020, and revised and reissued on June 6, 2020, and January 21, 2021. Sterilucent will no longer make the Sterilucent Decontamination System available for the authorized emergency use. In its request, Sterilucent confirmed that it has ceased operation of all Sterilucent Decontamination System sites as well as associated activities.

The authorization of a device for emergency use under section 564 of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. 360bbb-3) may be revoked when the circumstances described under section 564(b)(1) of the Act no longer exist (section 564(g)(2)(A) of the Act), the criteria under section 564(c) of the Act for issuance of such authorization are no longer met (section 564(g)(2)(B) of the Act), or other circumstances make such revocation appropriate to protect the public health or safety (section 564(g)(2)(C) of the Act). Because Sterilucent has notified FDA that it has ceased operations and associated activities and requests withdrawal of the authorization, and consistent with FDA's belief that the known and potential benefits of this system, when used for its emergency use, no longer outweigh the known and potential risks of such use, FDA has determined that it is appropriate to revoke this authorization because the criteria for issuance of an EUA under section 564(c)(2)(B) of the Act are no longer met. Moreover, based on the same information, FDA has concluded under section 564(g)(2)(C) of the Act that other circumstances make revocation of this EUA appropriate to protect the public health or safety.

Accordingly, FDA hereby revokes Sterilucent's EUA for the Sterilucent Decontamination System, pursuant to sections 564(g)(2)(B) and 564(g)(2)(C) of the Act. As of the date of this letter, the Sterilucent Decontamination System is no longer authorized for emergency use by FDA.

FDA encourages Sterilucent to inform its customers of this revocation.

Notice of this revocation will be published in the *Federal Register*, pursuant to section 564(h)(1) of the Act.

Page 2 - Peter Kalkbrenner, Sterilucent, Inc.

Sincerely,

/s/

\_\_\_\_\_  
RADM Denise M. Hinton  
Chief Scientist  
Food and Drug Administration



June 30, 2021

Ms. Nancy Havill  
Manager, Infection Prevention Ambulatory Services  
Yale New Haven Health System  
20 York Street  
New Haven, CT 06504

**Re: Revocation of EUA**

Dear Ms. Havill:

This letter is in response to Yale New Haven Health System's (Yale's) request dated April 16, 2021, that the U.S. Food and Drug Administration (FDA) withdraw the Emergency Use Authorization (EUA) for the Yale New Haven Health EFR Decontamination System (hereafter referred to as "Yale Decontamination System") issued on January 15, 2021. Yale will no longer make the Yale Decontamination System available for the authorized emergency use. In its request, Yale confirmed that it has ceased operation of all Yale Decontamination System sites as well as associated activities.

The authorization of a device for emergency use under section 564 of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. 360bbb-3) may be revoked when the circumstances described under section 564(b)(1) of the Act no longer exist (section 564(g)(2)(A) of the Act), the criteria under section 564(c) of the Act for issuance of such authorization are no longer met (section 564(g)(2)(B) of the Act), or other circumstances make such revocation appropriate to protect the public health or safety (section 564(g)(2)(C) of the Act). Because Yale has notified FDA that it has ceased operations and associated activities and requests withdrawal of the authorization, and consistent with FDA's belief that the known and potential benefits of this system, when used for its emergency use, no longer outweigh the known and potential risks of such use, FDA has determined that it is appropriate to revoke this authorization because the criteria for issuance of an EUA under section 564(c)(2)(B) of the Act are no longer met. Moreover, based on the same information, FDA has concluded under section 564(g)(2)(C) of the Act that other circumstances make revocation of this EUA appropriate to protect the public health or safety.

Accordingly, FDA hereby revokes Yale's EUA for the Yale Decontamination System, pursuant to sections 564(g)(2)(B) and 564(g)(2)(C) of the Act. As of the date of this letter, the Yale Decontamination System is no longer authorized for emergency use by FDA.

FDA encourages Yale to inform its customers of this revocation.

Notice of this revocation will be published in the *Federal Register*, pursuant to section 564(h)(1) of the Act.

Page 2 - Ms. Havill, Yale New Haven Health System

Sincerely,

/s/

\_\_\_\_\_  
RADM Denise M. Hinton  
Chief Scientist  
Food and Drug Administration



June 30, 2021

Dr. Brodbeck  
Senior Director, Regulatory Affairs  
STERIS Corporation  
5960 Heisley Road  
Mentor, OH 44060

**Re: Revocation of EUA**

Dear Dr. Brodbeck:

This letter is in response to STERIS Corporation's (STERIS's) request dated May 13, 2021, that the U.S. Food and Drug Administration (FDA) withdraw the Emergency Use Authorization (EUA) for the V-PRO 1 Plus, V-PRO maX, V-PRO maX2, V-PRO 60, and V-PRO s2 models of the vaporized hydrogen peroxide (VHP) low temperature sterilization systems (hereafter referred to as "STERIS Decontamination Systems") issued on April 9, 2020, and revised and reissued on June 6, 2020, and January 21, 2021. STERIS will no longer make the STERIS Decontamination Systems available for the authorized emergency use. In its request, STERIS confirmed that it has ceased operation of all STERIS Decontamination Systems sites as well as associated activities.

The authorization of a device for emergency use under section 564 of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. 360bbb-3) may be revoked when the circumstances described under section 564(b)(1) of the Act no longer exist (section 564(g)(2)(A) of the Act), the criteria under section 564(c) of the Act for issuance of such authorization are no longer met (section 564(g)(2)(B) of the Act), or other circumstances make such revocation appropriate to protect the public health or safety (section 564(g)(2)(C) of the Act). Because STERIS has notified FDA that it has ceased operations and associated activities and requests withdrawal of the authorization, and consistent with FDA's belief that the known and potential benefits of these systems, when used for its emergency use, no longer outweigh the known and potential risks of such use, FDA has determined that it is appropriate to revoke this authorization because the criteria for issuance of an EUA under section 564(c)(2)(B) of the Act are no longer met. Moreover, based on the same information, FDA has concluded under section 564(g)(2)(C) of the Act that other circumstances make revocation of this EUA appropriate to protect the public health or safety.

Accordingly, FDA hereby revokes STERIS's EUA for the STERIS Decontamination Systems, pursuant to sections 564(g)(2)(B) and 564(g)(2)(C) of the Act. As of the date of this letter, the STERIS Decontamination Systems are no longer authorized for emergency use by FDA.

FDA encourages STERIS to inform its customers of this revocation.

Notice of this revocation will be published in the *Federal Register*, pursuant to section 564(h)(1) of the Act.

Page 2 - Dr. Brodbeck, STERIS Corporation

Sincerely,

/s/

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RADM Denise M. Hinton  
Chief Scientist  
Food and Drug Administration



June 30, 2021

Dr. Brodbeck  
Senior Director, Regulatory Affairs  
STERIS Corporation  
5960 Heisley Road  
Mentor, OH 44060

**Re: Revocation of EUA**

Dear Dr. Brodbeck:

This letter is in response to STERIS Corporation's (STERIS's) request dated May 13, 2021, that the U.S. Food and Drug Administration (FDA) withdraw the Emergency Use Authorization (EUA) for the AMSCO Medium Steam Sterilizers and the STERIS STEAM Decontamination Cycle in AMSCO Medium Steam Sterilizers as the cycle for decontamination of compatible N95 respirators (hereafter referred to as "STERIS Steam Decontamination System") issued on May 21, 2020, and revised and reissued on January 21, 2021. STERIS will no longer make the STERIS Steam Decontamination System available for the authorized emergency use. In its request, STERIS confirmed that it has ceased operation of all STERIS Steam Decontamination System sites as well as associated activities.

The authorization of a device for emergency use under section 564 of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. 360bbb-3) may be revoked when the circumstances described under section 564(b)(1) of the Act no longer exist (section 564(g)(2)(A) of the Act), the criteria under section 564(c) of the Act for issuance of such authorization are no longer met (section 564(g)(2)(B) of the Act), or other circumstances make such revocation appropriate to protect the public health or safety (section 564(g)(2)(C) of the Act). Because STERIS has notified FDA that it has ceased operations and associated activities and requests withdrawal of the authorization, and consistent with FDA's belief that the known and potential benefits of this system, when used for its emergency use, no longer outweigh the known and potential risks of such use, FDA has determined that it is appropriate to revoke this authorization because the criteria for issuance of an EUA under section 564(c)(2)(B) of the Act are no longer met. Moreover, based on the same information, FDA has concluded under section 564(g)(2)(C) of the Act that other circumstances make revocation of this EUA appropriate to protect the public health or safety.

Accordingly, FDA hereby revokes STERIS's EUA for the STERIS Steam Decontamination System, pursuant to sections 564(g)(2)(B) and 564(g)(2)(C) of the Act. As of the date of this letter, the STERIS Steam Decontamination System is no longer authorized for emergency use by FDA.

FDA encourages STERIS to inform its customers of this revocation.

Notice of this revocation will be published in the *Federal Register*, pursuant to section 564(h)(1) of the Act.

Page 2 – Dr. Brodbeck, STERIS Corporation

Sincerely,

/s/

\_\_\_\_\_  
RADM Denise M. Hinton  
Chief Scientist  
Food and Drug Administration





June 30, 2021

Moira Barton-Varty, RAC  
Senior Principal Regulatory Affairs  
Stryker Sustainability Solutions  
1810 West Drake Drive  
Tempe, AZ 8528

**Re: Revocation of EUA**

Dear Ms. Barton-Varty:

This letter is in response to Stryker Sustainability Solution's (SSS's) request dated May 25, 2021, that the U.S. Food and Drug Administration (FDA) withdraw the Emergency Use Authorization (EUA) for the Stryker Sustainability Solutions VHP N95 Respirator Decontamination System (hereafter referred to as "SSS Decontamination System") issued on May 27, 2020, and revised and reissued on June 6, 2020, and January 21, 2021. SSS will no longer make the SSS Decontamination System available for the authorized emergency use. In its request, SSS confirmed that it has ceased operation of all SSS Decontamination System sites as well as associated activities.

The authorization of a device for emergency use under section 564 of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. 360bbb-3) may be revoked when the circumstances described under section 564(b)(1) of the Act no longer exist (section 564(g)(2)(A) of the Act), the criteria under section 564(c) of the Act for issuance of such authorization are no longer met (section 564(g)(2)(B) of the Act), or other circumstances make such revocation appropriate to protect the public health or safety (section 564(g)(2)(C) of the Act). Because SSS has notified FDA that it has ceased operations and associated activities and requests withdrawal of the authorization, and consistent with FDA's belief that the known and potential benefits of this system, when used for its emergency use, no longer outweigh the known and potential risks of such use, FDA has determined that it is appropriate to revoke this authorization because the criteria for issuance of an EUA under section 564(c)(2)(B) of the Act are no longer met. Moreover, based on the same information, FDA has concluded under section 564(g)(2)(C) of the Act that other circumstances make revocation of this EUA appropriate to protect the public health or safety.

Accordingly, FDA hereby revokes SSS EUA for the SSS Decontamination System, pursuant to sections 564(g)(2)(B) and 564(g)(2)(C) of the Act. As of the date of this letter, the SSS Decontamination System is no longer authorized for emergency use by FDA.

FDA encourages SSS to inform its customers of this revocation.

Notice of this revocation will be published in the *Federal Register*, pursuant to section 564(h)(1) of the Act.

Page 2 - Ms. Barton-Varty, Stryker Sustainability Solutions

Sincerely,

/s/

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RADM Denise M. Hinton  
Chief Scientist  
Food and Drug Administration



June 30, 2021

Joseph R. Haywood  
Assistant Vice President of Regulatory Affairs  
o/b/o F. Claire Hankenson, DVM, MS, Director  
Campus Animal Resources and University Veterinarian  
Michigan State University Animal Care Program  
4000 Collins, Suite 120  
Lansing, MI 48910

**Re: Revocation of EUA**

Dear Mr. Haywood:

This letter is in response to Michigan State University Animal Care Program's (MSU's) request dated May 27, 2021, that the U.S. Food and Drug Administration (FDA) withdraw the Emergency Use Authorization (EUA) for the MSU System for Decontaminating Compatible N95 Respirators (hereafter referred to as "MSU Decontamination System") issued on July 24, 2020, and revised and reissued on January 21, 2021. MSU will no longer make the MSU Decontamination System available for the authorized emergency use. In its request, MSU confirmed that it has ceased operation of all MSU Decontamination System sites as well as associated activities.

The authorization of a device for emergency use under section 564 of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. 360bbb-3) may be revoked when the circumstances described under section 564(b)(1) of the Act no longer exist (section 564(g)(2)(A) of the Act), the criteria under section 564(c) of the Act for issuance of such authorization are no longer met (section 564(g)(2)(B) of the Act), or other circumstances make such revocation appropriate to protect the public health or safety (section 564(g)(2)(C) of the Act). Because MSU has notified FDA that it has ceased operations and associated activities and requests withdrawal of the authorization, and consistent with FDA's belief that the known and potential benefits of this system, when used for its emergency use, no longer outweigh the known and potential risks of such use, FDA has determined that it is appropriate to revoke this authorization because the criteria for issuance of an EUA under section 564(c)(2)(B) of the Act are no longer met. Moreover, based on the same information, FDA has concluded under section 564(g)(2)(C) of the Act that other circumstances make revocation of this EUA appropriate to protect the public health or safety.

Accordingly, FDA hereby revokes MSU's EUA for the MSU Decontamination System, pursuant to sections 564(g)(2)(B) and 564(g)(2)(C) of the Act. As of the date of this letter, the MSU Decontamination System is no longer authorized for emergency use by FDA.

FDA encourages MSU to inform its customers of this revocation.

Notice of this revocation will be published in the *Federal Register*, pursuant to section 564(h)(1) of the Act.

Page 2 - Joseph R. Haywood, Michigan State University Animal Care Program

Sincerely,

/s/

\_\_\_\_\_  
RADM Denise M. Hinton  
Chief Scientist  
Food and Drug Administration



June 30, 2021

Ms. Carolyn Shelton  
VP, Global Regulatory & Medical Affairs, Product Stewardship  
Advanced Sterilization Products, Inc.  
6920 Seaway Blvd.  
Everett, WA 98203

**Re: Revocation of EUA**

Dear Ms. Shelton:

This letter is in response to Advanced Sterilization Products, Inc. (ASP) STERRAD's request dated June 4, 2021, that the U.S. Food and Drug Administration (FDA) withdraw the Emergency Use Authorization (EUA) for the ASP STERRAD 100S, NX, and 100NX Sterilization Systems (hereafter referred to as "ASP STERRAD Decontamination Systems") issued on April 11, 2020, and revised and reissued on June 6, 2020, and January 21, 2021. ASP STERRAD will no longer make the ASP STERRAD Decontamination Systems available for the authorized emergency use. In its request, ASP STERRAD confirmed that it has ceased operation of all ASP STERRAD Decontamination Systems sites as well as associated activities.

The authorization of a device for emergency use under section 564 of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. 360bbb-3) may be revoked when the circumstances described under section 564(b)(1) of the Act no longer exist (section 564(g)(2)(A) of the Act), the criteria under section 564(c) of the Act for issuance of such authorization are no longer met (section 564(g)(2)(B) of the Act), or other circumstances make such revocation appropriate to protect the public health or safety (section 564(g)(2)(C) of the Act). Because ASP STERRAD has notified FDA that it has ceased operations and associated activities and requests withdrawal of the authorization, and consistent with FDA's belief that the known and potential benefits of these systems, when used for their emergency use, no longer outweigh the known and potential risks of such use, FDA has determined that it is appropriate to revoke this authorization because the criteria for issuance of an EUA under section 564(c)(2)(B) of the Act are no longer met. Moreover, based on the same information, FDA has concluded under section 564(g)(2)(C) of the Act that other circumstances make revocation of this EUA appropriate to protect the public health or safety.

Accordingly, FDA hereby revokes ASP STERRAD's EUA for the ASP STERRAD Decontamination Systems, pursuant to sections 564(g)(2)(B) and 564(g)(2)(C) of the Act. As of the date of this letter, the ASP STERRAD Decontamination Systems are no longer authorized for emergency use by FDA.

FDA encourages ASP STERRAD to inform its customers of this revocation.

Notice of this revocation will be published in the *Federal Register*, pursuant to section 564(h)(1) of the Act.

Page 2 - Ms. Carolyn Shelton, ASP STERRAD

Sincerely,

/s/

\_\_\_\_\_  
RADM Denise M. Hinton  
Chief Scientist  
Food and Drug Administration



June 30, 2021

Mr. Brent Hart  
Technical Safety Services LLC  
620 Hearst Avenue  
Berkeley, CA 94710

**Re: Revocation of EUA**

Dear Mr. Hart:

This letter is in response to Technical Safety Services LLC's (TSS's) request dated June 7, 2021, that the U.S. Food and Drug Administration (FDA) withdraw the Emergency Use Authorization (EUA) for the 20-CS Decontamination System (hereafter referred to as "TSS Decontamination System") issued on June 13, 2020, and revised and reissued on January 21, 2021. TSS will no longer make the TSS Decontamination System available for the authorized emergency use. In its request, TSS confirmed that it has ceased operation of all TSS Decontamination System sites as well as associated activities.

The authorization of a device for emergency use under section 564 of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. 360bbb-3) may be revoked when the circumstances described under section 564(b)(1) of the Act no longer exist (section 564(g)(2)(A) of the Act), the criteria under section 564(c) of the Act for issuance of such authorization are no longer met (section 564(g)(2)(B) of the Act), or other circumstances make such revocation appropriate to protect the public health or safety (section 564(g)(2)(C) of the Act). Because TSS has notified FDA that it has ceased operations and associated activities and requests withdrawal of the authorization, and consistent with FDA's belief that the known and potential benefits of this system, when used for its emergency use, no longer outweigh the known and potential risks of such use, FDA has determined that it is appropriate to revoke this authorization because the criteria for issuance of an EUA under section 564(c)(2)(B) of the Act are no longer met. Moreover, based on the same information, FDA has concluded under section 564(g)(2)(C) of the Act that other circumstances make revocation of this EUA appropriate to protect the public health or safety.

Accordingly, FDA hereby revokes TSS's EUA for the TSS Decontamination System, pursuant to sections 564(g)(2)(B) and 564(g)(2)(C) of the Act. As of the date of this letter, the TSS Decontamination System is no longer authorized for emergency use by FDA.

FDA encourages TSS to inform its customers of this revocation.

Notice of this revocation will be published in the *Federal Register*, pursuant to section 564(h)(1) of the Act.

Page 2 – Mr. Brent Hart, Technical Safety Services LLC

Sincerely,

/s/

\_\_\_\_\_  
RADM Denise M. Hinton  
Chief Scientist  
Food and Drug Administration



June 30, 2021

Mr. Jeffrey J. Morris  
President  
Roxby Development, LLC  
102 Carmel Road  
Wheeling, WV 26003

**Re: Revocation of EUA**

Dear Mr. Morris:

This letter is in response to Roxby Development, LLC's (Roxby's) request dated June 7, 2021, that the U.S. Food and Drug Administration (FDA) withdraw the Emergency Use Authorization (EUA) for the Zoe-Ann Decontamination System (hereafter referred to as "Roxby Decontamination System") issued on October 20, 2020. Roxby will no longer make the Roxby Decontamination System available for the authorized emergency use. In its request, Roxby confirmed that it has ceased operation of all Roxby Decontamination System sites as well as associated activities.

The authorization of a device for emergency use under section 564 of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. 360bbb-3) may be revoked when the circumstances described under section 564(b)(1) of the Act no longer exist (section 564(g)(2)(A) of the Act), the criteria under section 564(c) of the Act for issuance of such authorization are no longer met (section 564(g)(2)(B) of the Act), or other circumstances make such revocation appropriate to protect the public health or safety (section 564(g)(2)(C) of the Act). Because Roxby has notified FDA that it has ceased operations and associated activities and requests withdrawal of the authorization, and consistent with FDA's belief that the known and potential benefits of this system, when used for its emergency use, no longer outweigh the known and potential risks of such use, FDA has determined that it is appropriate to revoke this authorization because the criteria for issuance of an EUA under section 564(c)(2)(B) of the Act are no longer met. Moreover, based on the same information, FDA has concluded under section 564(g)(2)(C) of the Act that other circumstances make revocation of this EUA appropriate to protect the public health or safety.

Accordingly, FDA hereby revokes Roxby's EUA for the Roxby Decontamination System, pursuant to sections 564(g)(2)(B) and 564(g)(2)(C) of the Act. As of the date of this letter, the Roxby Decontamination System is no longer authorized for emergency use by FDA.

FDA encourages Roxby to inform its customers of this revocation.

Notice of this revocation will be published in the *Federal Register*, pursuant to section 564(h)(1) of the Act.

Page 2 - Mr. Jeffrey J. Morris, Roxby Development, LLC

Sincerely,

*/s/*

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RADM Denise M. Hinton  
Chief Scientist  
Food and Drug Administration





June 30, 2021

Mr. Yasser Estafanous  
Director for Regulatory Affairs and Quality Assurance  
3B Medical, Inc.  
203 Avenue A NW, Suite 300  
Winter Haven, FL 33881

**Re: Revocation of EUA**

Dear Mr. Estafanous:

This letter is in response to 3B Medical, Inc.'s (3B Medical's) request dated June 7, 2021, that the U.S. Food and Drug Administration (FDA) withdraw the Emergency Use Authorization (EUA) for the Lumin LM3000 Bioburden Reduction UV System (hereafter referred to as "3B Medical Bioburden Reduction System") issued on December 3, 2020. 3B Medical will no longer make the 3B Medical Bioburden Reduction System available for the authorized emergency use. In its request, 3B Medical confirmed that it has ceased operation of all 3B Medical Bioburden Reduction System sites as well as associated activities.

The authorization of a device for emergency use under section 564 of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. 360bbb-3) may be revoked when the circumstances described under section 564(b)(1) of the Act no longer exist (section 564(g)(2)(A) of the Act), the criteria under section 564(c) of the Act for issuance of such authorization are no longer met (section 564(g)(2)(B) of the Act), or other circumstances make such revocation appropriate to protect the public health or safety (section 564(g)(2)(C) of the Act). Because 3B Medical has notified FDA that it has ceased operations and associated activities and requests withdrawal of the authorization, and consistent with FDA's belief that the known and potential benefits of this system, when used for its emergency use, no longer outweigh the known and potential risks of such use, FDA has determined that it is appropriate to revoke this authorization because the criteria for issuance of an EUA under section 564(c)(2)(B) of the Act are no longer met. Moreover, based on the same information, FDA has concluded under section 564(g)(2)(C) of the Act that other circumstances make revocation of this EUA appropriate to protect the public health or safety.

Accordingly, FDA hereby revokes 3B Medical's EUA for the 3B Medical Bioburden Reduction System, pursuant to sections 564(g)(2)(B) and 564(g)(2)(C) of the Act. As of the date of this letter, the 3B Medical Bioburden Reduction System is no longer authorized for emergency use by FDA.

FDA encourages 3B Medical to inform its customers of this revocation.

Notice of this revocation will be published in the *Federal Register*, pursuant to section 564(h)(1) of the Act.

Page 2 - Mr. Yasser Estafanous, 3B Medical, Inc

Sincerely,

/s/

\_\_\_\_\_  
RADM Denise M. Hinton  
Chief Scientist  
Food and Drug Administration



June 30, 2021

Mr. Raghu Jainapur  
Vice President, Regulatory Affairs, Global Healthcare  
Ecolab Inc.  
1 Ecolab Place  
St. Paul, MN 55102

**Re: Revocation of EUA**

Dear Mr. Jainapur:

This letter is in response to Ecolab Inc.'s (Ecolab's) request dated June 7, 2021, that the U.S. Food and Drug Administration (FDA) withdraw the Emergency Use Authorization (EUA) for the Bioquell Technology System (hereafter referred to as "Ecolab Decontamination System") issued on December 4, 2020. Ecolab will no longer make the Ecolab Decontamination System available for the authorized emergency use. In its request, Ecolab confirmed that it has ceased operation of all Ecolab Decontamination System sites as well as associated activities.

The authorization of a device for emergency use under section 564 of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. 360bbb-3) may be revoked when the circumstances described under section 564(b)(1) of the Act no longer exist (section 564(g)(2)(A) of the Act), the criteria under section 564(c) of the Act for issuance of such authorization are no longer met (section 564(g)(2)(B) of the Act), or other circumstances make such revocation appropriate to protect the public health or safety (section 564(g)(2)(C) of the Act). Because Ecolab has notified FDA that it has ceased operations and associated activities and requests withdrawal of the authorization, and consistent with FDA's belief that the known and potential benefits of this system, when used for its emergency use, no longer outweigh the known and potential risks of such use, FDA has determined that it is appropriate to revoke this authorization because the criteria for issuance of an EUA under section 564(c)(2)(B) of the Act are no longer met. Moreover, based on the same information, FDA has concluded under section 564(g)(2)(C) of the Act that other circumstances make revocation of this EUA appropriate to protect the public health or safety.

Accordingly, FDA hereby revokes Ecolab's EUA for the Ecolab Decontamination System, pursuant to sections 564(g)(2)(B) and 564(g)(2)(C) of the Act. As of the date of this letter, the Ecolab Decontamination System is no longer authorized for emergency use by FDA.

FDA encourages Ecolab to inform its customers of this revocation.

Notice of this revocation will be published in the *Federal Register*, pursuant to section 564(h)(1) of the Act.

Page 2 - Mr. Raghu Jainapur, Ecolab Inc.

Sincerely,

/s/

\_\_\_\_\_  
RADM Denise M. Hinton  
Chief Scientist  
Food and Drug Administration



June 30, 2021

Ms. Susanne Galin  
Stryker Instruments  
2505 Avenue Dalton  
Quebec, QC G1P3S5 Canada

**Re: Revocation of EUA**

Dear Ms. Galin:

This letter is in response to Stryker Instruments' (Stryker's) request dated June 8, 2021, that the U.S. Food and Drug Administration (FDA) withdraw the Emergency Use Authorization (EUA) for the Stryker Instrument's Sterizone VP4 Sterilizer N95 Respirator Decontamination Cycle (hereafter referred to as "Stryker Decontamination System") issued on April 14, 2020, and revised and reissued on June 6, 2020, and January 21, 2021. Stryker will no longer make the Stryker Decontamination System available for the authorized emergency use. In its request, Stryker confirmed that it has ceased operation of all Stryker Decontamination System sites as well as associated activities.

The authorization of a device for emergency use under section 564 of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. 360bbb-3) may be revoked when the circumstances described under section 564(b)(1) of the Act no longer exist (section 564(g)(2)(A) of the Act), the criteria under section 564(c) of the Act for issuance of such authorization are no longer met (section 564(g)(2)(B) of the Act), or other circumstances make such revocation appropriate to protect the public health or safety (section 564(g)(2)(C) of the Act). Because Stryker has notified FDA that it has ceased operations and associated activities and requests withdrawal of the authorization, and consistent with FDA's belief that the known and potential benefits of this system, when used for its emergency use, no longer outweigh the known and potential risks of such use, FDA has determined that it is appropriate to revoke this authorization because the criteria for issuance of an EUA under section 564(c)(2)(B) of the Act are no longer met. Moreover, based on the same information, FDA has concluded under section 564(g)(2)(C) of the Act that other circumstances make revocation of this EUA appropriate to protect the public health or safety.

Accordingly, FDA hereby revokes Stryker's EUA for the Stryker Decontamination System, pursuant to sections 564(g)(2)(B) and 564(g)(2)(C) of the Act. As of the date of this letter, the Stryker Decontamination System is no longer authorized for emergency use by FDA.

FDA encourages Stryker to inform its customers of this revocation.

Notice of this revocation will be published in the *Federal Register*, pursuant to section 564(h)(1) of the Act.

Page 2 – Ms. Galin, Stryker Instruments

Sincerely,

/s/

\_\_\_\_\_  
RADM Denise M. Hinton  
Chief Scientist  
Food and Drug Administration

**BILLING CODE 4164-01-C**

Dated: August 26, 2021.

**Lauren K. Roth,**

*Acting Principal Associate Commissioner for Policy.*

[FR Doc. 2021-18777 Filed 8-30-21; 8:45 am]

**BILLING CODE 4164-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA-2021-N-0412]

#### Revocation of Authorization of Emergency Use of an In Vitro Diagnostic Device for Detection and/or Diagnosis of COVID-19; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the revocation of the Emergency Use Authorization (EUA) (the Authorization) issued to Curative Inc. for the Curative SARS-Cov-2 Assay. FDA revoked the Authorization on July 15, 2021, under the Federal Food, Drug, and Cosmetic Act (FD&C Act), as requested by Curative Inc. on June 16, 2021. The revocation, which includes an explanation of the reasons for the revocation, is reprinted in this document.

**DATES:** The Authorization for the Curative SARS-Cov-2 Assay is revoked as of July 15, 2021.

**ADDRESSES:** Submit written requests for a single copy of the revocation to the Office of Counterterrorism and Emerging Threats, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 1, Rm. 4338, Silver Spring, MD 20993-0002. Send one self-addressed adhesive label to assist that office in processing your request or include a fax number to which the revocation may be sent. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the revocation.

**FOR FURTHER INFORMATION CONTACT:**

Jennifer J. Ross, Office of Counterterrorism and Emerging Threats, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 1, Rm. 4332, Silver Spring, MD 20993-0002, 240-402-8155 (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

#### I. Background

Section 564 of the FD&C Act (21 U.S.C. 360bbb-3) allows FDA to strengthen the public health protections against biological, chemical, nuclear, and radiological agents. Among other things, section 564 of the FD&C Act allows FDA to authorize the use of an unapproved medical product or an unapproved use of an approved medical product in certain situations. On April 16, 2020, FDA issued the Authorization to Curative Inc. (original issuance to KorvaLabs, Inc. under the name Curative-Korva SARS-Cov-2 Assay). Notice of the issuance of the Authorization was published in the **Federal Register** on July 14, 2020 (85 FR 42407), as required by section 564(h)(1)

of the FD&C Act. The authorization of a device for emergency use under section 564 of the FD&C Act may, pursuant to section 564(g)(2)(C) of the FD&C Act, be revoked when circumstances make such revocation appropriate to protect the public health or safety.

#### II. EUA Revocation Request of an In Vitro Diagnostic Device

On June 16, 2021, Curative Inc. requested the revocation of, and on July 15, 2021, FDA revoked, the Authorization for the Curative SARS-Cov-2 Assay. Because Curative Inc. notified FDA that it will no longer be using the Curative SARS-Cov-2 Assay as of July 15, 2021, and requested FDA revoke the authorization effective that day, FDA has determined that it is appropriate to protect the public health or safety to revoke this Authorization.

#### III. Electronic Access

An electronic version of this document and the full text of the revocations are available on the internet at <https://www.regulations.gov/> and <https://www.fda.gov/media/150773/download>.

#### IV. The Revocation

Having concluded that the criteria for revocation of the Authorization under section 564(g)(2)(C) of the FD&C Act are met, FDA has revoked the EUA for the Curative SARS-Cov-2 Assay. The revocation in its entirety follows and provides an explanation of the reasons for revocation, as required by section 564(h)(1) of the FD&C Act.

**BILLING CODE 4164-01-P**



July 15, 2021

Fred Turner  
 Chief Executive Officer  
 Curative Inc.  
 1600 Adams Drive, Suite 105  
 Menlo Park, CA 94025  
**Re: Revocation of EUA200132**

Dear Mr. Turner:

This letter is in response to Curative Inc.'s (Curative) request dated June 16, 2021, that the U.S. Food and Drug Administration (FDA) revoke the Emergency Use Authorization (EUA200132) for the Curative SARS-Cov-2 Assay issued on April 16, 2020, under the original name Curative-Korva SARS-Cov-2 Assay, and amended on June 11, 2020. As was also announced in its June 16, 2021 press release,<sup>1</sup> Curative has indicated that it is transitioning to the use of different EUA-authorized SARS-CoV-2 tests for the testing offered at its laboratories. In its June 16 letter, Curative requested that the revocation of the Curative SARS-Cov-2 Assay be effective July 15, 2021, noting that it will no longer be in use as of July 15, 2021.

The authorization of a device for emergency use under section 564 of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. 360bbb-3) may, pursuant to section 564(g)(2) of the Act, be revoked when circumstances make such revocation appropriate to protect the public health or safety (section 564(g)(2)(C) of the Act). Because Curative has notified FDA that it will no longer be using the Curative SARS-Cov-2 Assay as of July 15, 2021 and requests FDA revoke the authorization effective that day, FDA has determined that it is appropriate to protect the public health or safety to revoke this authorization. Accordingly, FDA hereby revokes EUA200132 for the Curative SARS-Cov-2 Assay, pursuant to section 564(g)(2)(C) of the Act. As of the date of this letter, the Curative SARS-Cov-2 Assay is no longer authorized for emergency use by FDA.

Notice of this revocation will be published in the *Federal Register*, pursuant to section 564(h)(1) of the Act.

Sincerely,

**Denise M.  
 Hinton -S**

Digitally signed by  
 Denise M. Hinton -S  
 Date: 2021.07.15  
 07:51:38 -04'00'

RADM Denise M. Hinton  
 Chief Scientist  
 Food and Drug Administration

<sup>1</sup> <https://www.prnewswire.com/news-releases/curative-expands-testing-options-for-covid-19-flu-and-rsv-across-nationwide-healthcare-delivery-network-301314095.html>

Dated: August 26, 2021.

**Lauren K. Roth,**

*Acting Principal Associate Commissioner for Policy.*

[FR Doc. 2021-18789 Filed 8-30-21; 8:45 am]

**BILLING CODE 4164-01-C**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Health Resources and Services Administration**

**Statement of Organization, Functions, and Delegations of Authority**

Part R (Health Resources and Services Administration) of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human

Services (60 FR 56605, as amended November 6, 1995; as last amended at 86 FR 6344-6349 dated January 21, 2021) is amended to reorganize sections of the Office of the Administrator, the Healthcare Systems Bureau, and the Bureau of Primary Health Care.

Key functional changes include re-establishing, retaining and renaming the Healthcare Systems Bureau to the Health Systems Bureau; changing the name of the Office of Provider Support to the Provider Relief Bureau; changing the name of the Office of Regional

Operations to the Office of Intergovernmental and External Affairs; updating the division structure within the Office of Planning, Analysis and Evaluation; updating the organization and functional statement for the Office of Federal Assistance Management; and realigning the external engagement function from the Office of Planning, Analysis and Evaluation and the Tribal Affairs activities from the Office of Health Equity to the renamed Office of Intergovernmental and External Affairs.

This reorganization establishes, updates, realigns, and/or deletes the organization, functions, and delegation of authority for the (1) Health Resources and Services Administration (R); (2) Office of the Administrator (RA); (3) Office for the Advancement of Telehealth (RA3); (4) Office of Special Health Initiatives (RA4); (5) Office of Planning, Analysis and Evaluation (RA5); (6) Office of Provider Support (RD); (6) Bureau of Primary Health Care (RC); (7) Office of Federal Assistance Management (RJ); (8) Office of Regional Operations; and (9) Healthcare Systems Bureau (RR).

## Chapter R—Health Resources and Services Administration

### Section R.10 Organization

Delete the organization for the Health Resources and Services Administration (R) in its entirety and replace with the following:

The Health Resources and Services Administration (R) is headed by the Administrator, who reports directly to the Secretary, HHS. The Health Resources and Services Administration includes the following components:

- Office of the Administrator (RA);
- Office of Operations (RB);
- Office of Federal Assistance Management (RJ);
- Office of Intergovernmental and External Affairs (RE);
- Bureau of Health Workforce (RQ);
- Bureau of Primary Health Care (RC);
- HIV/AIDS Bureau (RV);
- Federal Office of Rural Health Policy (RH);
- Health Systems Bureau (RR);
- Maternal and Child Health Bureau (RM); and
- Provider Relief Bureau (RD).

## Chapter RA—Office of the Administrator

### Section RA.10 Organization

Delete the organization for the Office of the Administrator (RA) in its entirety and replace with the following:

- Immediate Office of the Administrator (RA);
- Office of Civil Rights, Diversity and Inclusion (RA2);

- Office for the Advancement of Telehealth (RA3);
  - Telehealth Innovation and Services Division (RA31);
- Office of Special Health Initiatives (RA4);
  - Office of Pharmacy Affairs (RA41);
  - Office of Global Health (RA42);
  - Division of Global Programs (RA421);
- Office of Planning, Analysis and Evaluation (RA5);
  - Division of Performance and Quality Management (RA5A);
  - Division of Oversight, Reporting and Regulatory Compliance (RA5B);
  - Division of Data Governance and Strategic Analysis (RA5C);
  - Division of Strategic Initiatives (RA5D);
- Office of Communications (RA6);
- Office of Legislation (RAE);
- Office of Health Equity (RAB); and
- Office of Women's Health (RAW).

### Section RA.20 Function

(1) Delete the functional statement for the Immediate Office of the Administrator (RA) in its entirety and replace; (2) delete the functional statement for the Office for the Advancement of Telehealth (RA3) in its entirety and replace; (3) delete the functional statement for the Office of Special Health Initiatives, Office of the Director (RA4) and replace; (4) delete the functional statement for Division of Injury Compensation Programs and move to the Health Systems Bureau (RR); and (5) delete the functional statement for the Office of Planning, Analysis, and Evaluation (RA5) in its entirety and replace.

## Immediate Office of the Administrator (RA)

The Immediate Office of the Administrator for the Health Resources and Services Administration (HRSA) leads and directs programs and activities of the agency and advises the Office of the Secretary of Health and Human Services on policy matters concerning them. Specifically, the Immediate Office of the Administrator: (1) Provides consultation and assistance to senior agency officials and others on clinical, health care delivery, and health workforce issues; (2) serves as the agency's focal point on efforts to strengthen the practice of public health as it pertains to the HRSA mission; (3) establishes and maintains communication with health organizations in the public and private sectors; (4) coordinates the agency's policy development, data strategy, evaluation and research planning processes; (5) manages the legislative

analysis and engagement for the agency; (6) administers HRSA's equal opportunity and civil rights activities; (7) provides overall leadership, direction, coordination and planning in support of the agency's special health initiatives; (8) manages programs to advance the use of telehealth and coordination of health information technology; (9) manages HRSA's global health issues, including the President's Emergency Plan For AIDS Relief (PEPFAR); (10) administers PEPFAR grants and oversees HRSA's implementation of PEPFAR funding and activities; (11) leads HRSA's efforts to improve the health, wellness, and safety of women and girls through policy, programming and outreach/education; (12) provides leadership and policy development in the administration of the 340B Drug Pricing Program; (13) implements efforts to advance health equity in HRSA programs; and (14) provides cross-cutting leadership on HRSA's behavioral health and oral health programs.

## Office for the Advancement of Telehealth (RA3)

### Office of the Director (RA3)

The Office for the Advancement of Telehealth (1) promotes the use of telehealth technologies for health care delivery, education, and health information services; (2) serves as the central focal point for the Department of Health and Human Services (HHS) efforts in leveraging telehealth programs and policies to improve access, enhance outcomes, and support clinicians and patients; (3) administers grant programs focused on telehealth for direct services, research, and technical assistance; (4) advances the provision of telehealth services to rural and underserved communities; (5) builds the evidence-base for telehealth research; (6) manages *Telehealth.HHS.gov* as the HHS hub for telehealth resources for both patients and health care providers; (7) collaborates with HHS components and other federal agencies to improve access to telehealth and broadband services; (8) provides overall direction and leadership over the management of programs to advance the use of telehealth; (9) provides professional assistance and support in developing telehealth initiatives; (10) provides consultation to and coordinates activities within HRSA and HHS, and with other federal agencies, state and local governments, and other public and private organizations to leverage telehealth to improve access to care, enhance outcomes, and support clinicians and patients; (11) promotes

the use of telehealth technologies for health care delivery, education and health information services; and (12) serves as the operational focal point for coordinating and advancing the use of telehealth technologies across all of HRSA's programs including, but not limited to, the provision of health care at a distance (telemedicine), distance based learning to improve the knowledge of agency grantees and others, and improved information dissemination to both consumers and providers about the latest developments in telemedicine.

*Telehealth Innovation and Services Division (RA31)*

The Telehealth Innovation and Services Division serves as the focal point in the Office for the Advancement of Telehealth to support innovative grant programs for direct services and technical assistance in the field of telehealth. Specifically, the Telehealth Services Division carries out the following functions: (1) Develops and coordinates telehealth network grant programs, telehealth resource center grant programs, the telehealth centers of excellence, the licensure portability grant program, and the telehealth broadband pilot program; (2) administers grant programs to promulgate and evaluate the use of appropriate telehealth technologies among HRSA grantees and others; (3) monitors the performance of telehealth grant programs, making programmatic recommendations and providing assistance to improve performance, where appropriate; (4) coordinates and provides technical assistance and expertise to grantees of funded programs; and (5) develops funding opportunity announcements and program guidance documents.

**Office of Special Health Initiatives (RA4)**

*Office of the Director (RA4)*

The Office of Special Health Initiatives (OSHI) provides a crosscutting focal point for HRSA to deliver on population health and Secretarial priorities, especially those that may be more clinical in nature. Specifically, OSHI (1) coordinates and collaborates with components in HHS that align with the work of OSHI; (2) serves as the principal advisor within HRSA on global health issues; (3) provides agency-wide leadership and policy development in the administration of the 340B Drug Pricing Program to promote access to clinically and cost effective pharmacy services to the country's most vulnerable patient

populations; (4) serves as the lead on behavioral health issues that span HRSA; and (5) provides cross-cutting leadership on HRSA oral health programs.

**Office of Planning, Analysis and Evaluation (RA5)**

*Office of the Director (RA5)*

The Office of Planning, Analysis and Evaluation provides (1) agency-wide leadership for performance management and data governance; (2) directs the agency's long term strategic planning process; (3) conducts and/or guides analyses, research, and program evaluation; (4) facilitates policy development by serving as the analytic liaison between the Administrator, other Operating/Staff Divisions, Office of the Secretary staff components, and other Departments on critical matters involving agency program policies; (5) provides oversight and coordination of program performance reports and plans, including to the Department and OMB; (6) provides support, agency direction, and leadership for HRSA's data-driven, health quality efforts; (7) coordinates the agency's participation in Department and federal strategic initiatives related to organizational performance and implementation of executive directives; (8) coordinates HRSA innovation activities across the agency and with HHS Operating/Staff Divisions to support HRSA programs and operations; (9) provides data-driven technical assistance to agency programs in order to help them respond to emerging issues affecting the health care safety net; (10) conducts special studies and analyses and/or provides analytic support and information to support the agency's goals and directions; (11) oversees and coordinates HRSA innovation activities, including the identification of agency capability gaps and potential solutions to fill the gaps; (12) directs life cycle management of innovation pilot programs and challenge competitions; (13) provides technical assistance to HRSA divisions in the identification of areas for innovation, including funding and solution development; (14) collaborates with other HHS agencies to promote innovation and resource sharing; and (15) leads external innovation partnership development to enhance HRSA staff awareness of non-governmental innovations that could benefit the agency.

*Division of Performance and Quality Management (RA5A)*

The Division of Performance and Quality Management (1) serves as the principal agency resource for

performance and quality measurement (2) leads HRSA implementation of program performance-related legislation; (3) produces regular HRSA-wide program performance reports and plans in compliance legislative, OMB, and departmental directives; (4) assists HRSA divisions in the selection, development, maintenance, and alignment of performance measures; (5) leads HRSA strategic planning processes and serves as primary liaison to HHS in the development of the Department's strategic plan and associated requirements; (6) provides support, policy direction, and leadership for HRSA's health quality measurement efforts; (7) collaborates with other HHS agencies to promote improvements in the availability of performance- and quality-related information; (8) serves as HRSA liaison to the Department in the development of HHS research and evaluation initiatives; (9) coordinates HRSA's survey activities; (10) conducts, guides, and/or participates in major program evaluation efforts and prepares reports on HRSA program efficiencies; (11) coordinates the HRSA-wide evaluation resource investments; (12) performs technical assistance to support HRSA program staff develop and implement program evaluations, and (13) coordinates HRSA input for the Healthy People initiative.

*Division of Oversight, Reporting and Regulatory Compliance (RA5B)*

The Division of Oversight, Reporting and Regulatory Compliance (1) serves as the agency liaison to manage and coordinate study engagements with the Government Accountability Office and the HHS Office of the Inspector General, Office of Evaluation and Inspections; (2) manages coordination with the Department and OMB for oversight, reporting, and compliance policies, engagements, and requirements; (3) provides technical assistance to support HRSA program staff development to meet compliance-related reporting requirements; (4) coordinates HRSA participation in institutional review boards, the protection of human subjects, and serves as the agency's Privacy Act Officer; (5) manages HRSA activity related to the Paperwork Reduction Act, and other OMB policies; (6) leads the Data Disclosure Review Board; and (7) serves as the agency lead to oversee development and management of Agency Data Use Agreements.

*Division of Data Governance and Strategic Analysis (RA5C)*

The Division of Data Governance and Strategic Analysis (1) leads

development and implementation of the HRSA Data Strategic Plan; (2) serves as the agency lead in the coordination of all data governance and analytics; (3) analyzes and coordinates HRSA's need for information and data for use in the management and direction of agency programs; (4) catalyzes new capabilities in data-related activities by providing agency leadership and coordination; (5) maintains an inventory of HRSA databases; (6) promotes the availability of HRSA data through websites and other on-line applications; (7) serves as the principal agency resource for policy analysis; (8) analyzes issues arising from legislation, budget proposals, regulatory actions, and other program or policy actions; (9) serves as focal point within HRSA for analysis of health care payment systems and financing issues; (10) conducts HRSA-wide trainings on health care policy and financing issues; and (11) collaborates with HHS Operating/Staff Divisions to examine the impact of Medicare, Medicaid, and Children's Health Insurance Program on HRSA grantees and safety net providers.

#### *Division of Strategic Initiatives (RA5D)*

The Division of Strategic Initiatives (1) provides HRSA-wide leadership on cross-agency initiatives and departmental priorities; (2) serves as agency lead and liaison between the Administrator, other Operating/Staff Divisions, Office of the Secretary staff components, and other Departments on priority initiatives; (3) provides technical assistance to agency programs in order to help them respond to emerging issues affecting the health care safety net; and (4) provides agency leadership and guidance on policy development.

### **Chapter RC—Bureau of Primary Health Care (RC)**

#### *Section RC.10 Organization*

Delete the organization for the Bureau of Primary Health Care (RC) in its entirety and replace with the following:

The Bureau of Primary Health Care (RC) is headed by the Associate Administrator, who reports directly to the Administrator, HRSA. The Bureau of Primary Health Care (RC) includes the following components:

- Office of the Associate Administrator (RC);
- Division of Workforce Management (RC2);
- Office of Strategic Business Operations (RCA);
- Office of Health Center Investment Oversight (RCC);
- Office of Health Center Program Monitoring (RCF);

- Office of Policy and Program Development (RCH); and
- Office of Quality Improvement (RCK).

#### *Section RC.20 Function*

(1) Delete the functional statement for the Office of the Associate Administrator and replace in its entirety; (2) delete the functional statement for the Office of Policy and Program Development (RCH); and (3) delete the functional statement for the Division of National Hansen's Disease Program (RC4) and move to the Health Systems Bureau (RR).

#### *Office of the Associate Administrator (RC)*

Provides overall leadership, direction, coordination, and planning in support of the Bureau of Primary Health Care's programs. Specifically, the Office of the Associate Administrator: (1) Establishes program goals, objectives, and priorities, and provides oversight to their execution; (2) plans, directs, coordinates, supports, and evaluates bureau wide management activities; and (3) maintains effective relationships within HRSA and with other HHS organizations, other federal agencies, state and local governments, and other public and private organizations concerned with primary health care, eliminating health disparities, and improving the health status of the nation's underserved and vulnerable populations.

#### *Office of Policy and Program Development (RCH)*

The Office of Policy and Program Development serves as the organizational focus for the development of the Bureau of Primary Health Care programs and policies. Specifically, the Office of Policy and Program Development: (1) Leads and monitors the strategic development of primary care programs, including health centers, special population programs, and other health systems; (2) provides assistance to communities, community-based organizations, and bureau programs related to the development and expansion of primary care; (3) develops bureau capital programs and oversees loan guarantee programs; (4) leads and coordinates the analysis, development, and drafting of budget and policy impacting bureau programs; (5) provides support to the National Advisory Council on Migrant Health; (6) performs environmental scanning on issues that affect bureau programs; and (7) consults and coordinates with other components within HRSA and HHS, and with other federal agencies, state

and local governments, and other public and private organizations on issues affecting bureau programs and policies.

### **Chapter RD—Provider Relief Bureau (RD)**

#### *Section RD.10 Organization*

Rename the Office of Provider Support to the Provider Relief Bureau.

The Provider Relief Bureau (RD) is headed by the Associate Administrator, who reports directly to the Administrator, HRSA. The Provider Relief Bureau includes the following components:

- Office of the Associate Administrator (RD);
- Division of Policy and Program Operations (RD1);
- Division of Customer Support (RD2); and
- Division of Data Analytics and Program Integrity (RD3).

### **Chapter RE—Office of Intergovernmental and External Affairs (RE)**

#### *Section RE.10 Organization*

Rename the Office of Regional Operations to the Office of Intergovernmental and External Affairs (RE).

The Office of Intergovernmental and External Affairs (RE) is headed by the Associate Administrator, who reports directly to the Administrator, HRSA, and includes the following components:

- Office of the Associate Administrator (RE);
- Boston Regional Office (RE1);
- New York Regional Office (RE2);
- Philadelphia Regional Office (RE3);
- Atlanta Regional Office (RE4);
- Chicago Regional Office (RE5);
- Dallas Regional Office (RE6);
- Kansas City Regional Office (RE7);
- Denver Regional Office (RE8);
- San Francisco Regional Office (RE9); and
- Seattle Regional Office (RE10).

#### *Section RE.20 Function*

Delete the functional statement for the Office of Regional Operations and replace with the following:

#### *Office of Intergovernmental and External Affairs (RE)*

The Office of Intergovernmental and External Affairs serves as the principal Agency lead on intergovernmental and external affairs, regional operations, and tribal partnerships. The Office serves as the Agency liaison to the HHS Office of Intergovernmental and External Affairs. Specifically, the Office: (1) Provides the HRSA Administrator and agency leadership with a single point of contact



on all intergovernmental, stakeholder associations, and interest groups activities; (2) serves as the primary liaison to Department and other federal intergovernmental staff; (3) manages agency cross-Bureau cooperative agreements and activities with national organizations of state and local health leaders and elected officials; (4) coordinates tribal activities across the agency and strengthens HRSA's unique relationships with tribes; (5) coordinates HRSA activities with regional commissions, such as the Delta, Appalachian, Denali and Border Health commissions; (6) functions as the regional component of HRSA by providing leadership on HRSA's mission and priorities across headquarters, regions, states, tribes, territories, and local communities; (7) conducts outreach to expand knowledge of HRSA's programs to advance agency and Department priorities; (8) generates and sustains collaborative efforts with state and jurisdictional health care leaders to align HRSA and other resources; (9) presents regional surveillance and analysis of health care trends and makes recommendations to HRSA leadership, government officials and stakeholders to improve policies and programs; (10) exercises management authority for general administration of HRSA's regional offices; and (11) manages HRSA's Tribal Advisory Council, participates in HHS Tribal Consultations and collaborates with IHS and other federal and community stakeholders to address tribal issues.

## **Chapter RJ—Office of Federal Assistance Management (RJ)**

### *Section RJ.10 Organization*

Delete the organization for the Office of Federal Assistance Management (RJ) in its entirety and replace with the following:

The Office of Federal Assistance Management (RJ) is headed by the Associate Administrator, who reports directly to the Administrator, HRSA. The Office of Federal Assistance Management includes the following components:

- Office of the Associate Administrator (RJ);
- Office of Operations Management (RJA);
- Office of Systems and Data (RJB);
- Division of Financial Integrity (RJ1);
- Division of Grants Policy and Planning (RJ2);
- Division of Grants Management Operations (RJ3); and
- Division of Independent Review (RJ4).

### *Section RJ.20 Function*

Delete the functional statement for the Office of the Federal Assistance Management (RJ) in its entirety and replace:

#### *Office of Federal Assistance Management (RJ)*

The Office of Federal Assistance Management (OFAM) provides national leadership in the administration and assurance of the financial integrity of HRSA's programs. Provides leadership, direction, and coordination to all phases of grants policy, administration, and independent review of Competitive grant applications. Specifically, OFAM: (1) Serves as the Administrator's principal source for grants policy and financial integrity of HRSA programs; (2) exercises oversight over the agency's business processes related to assistance programs; (3) facilitates, plans, directs, and coordinates the administration of HRSA grant policies and operations; (4) directs and carries out the independent review of grant applications for all of HRSA's programs; (5) exercises the responsibility within HRSA for grant and cooperative agreement receipt, award, and post-award processes; and (6) plans, directs plus manages the electronic systems and business operations that enable staff to perform their day-to-day work.

#### *Office of Operations Management (RJA)*

The Office of Operations Management provides OFAM-wide strategic organizational management and direction. Plans, directs and coordinates OFAM-wide business operations and administrative management activities. Specifically, the Office of Operations Management: (1) Serves as the principal source for administrative operations advice and assistance; (2) provides guidance and coordinates personnel activities for OFAM; (3) provides organization and management analysis, coordinating the allocation of personnel resources, developing policies and procedures for internal operations, interpreting and implementing OFAM management policies and procedures and systems; (4) develops and coordinates OFAM administrative delegations of authority activities (5) lead, plan, and coordinate all OFAM budgetary activities, such as contacts, procurements and inter-agency agreements, as well as, provides guidance and support to OFAM leadership in these areas; (6) provides OFAM-wide support services such as acquisition support, travel coordination, supply management, equipment utilization, printing, property

management, space management, records management, and management reports; (7) coordinates OFAM administrative management activities with other components within HRSA and HHS, and with other federal agencies, as appropriate; and (8) provides overall support for OFAM's continuity of operations and emergency support.

#### *Office of Systems and Data (RJB)*

The Office of Systems and Data provides strategic management and direction for OFAM-wide efforts addressing data analysis, evaluation and systems. Specifically, the Office of Systems and Data: (1) Coordinates and analyzes the agency's need for federal assistance data for all programs; (2) collects federal assistance data to quantify and measure financial assistance data for evaluation at the national level (3) provides coordination and strategic guidance for OFAM's Management of the Electronic Handbook, *Grants.gov*, and other Information Technology systems; (4) coordinates OFAM's Electronic Handbook data requests, dashboard and report development; and provides guidance on data management laws, regulations, governances and policy; (5) develops and manages OFAM performance measures; and (6) manages and maintains current data on all electronic sites.

#### *Division of Financial Integrity (RJ1)*

The Division of Financial Integrity: (1) Coordinates agency-wide efforts addressing HHS's Program Integrity Initiative/Enterprise Risk Management; (2) serves as the agency's focal point for resolving audit findings on HRSA programs resulting from the Single Audits and special reviews; (3) conducts financial and compliance reviews of non-federal entities use of HRSA funds; (4) conducts the pre-award financial assessment of HRSA non-federal entities; (5) conducts the pre-award and post-award review of grant applicant's and non-federal entities financial soundness and management including accounting systems for managing federal grants; (6) conducts ad hoc studies and reviews related to the financial integrity of the HRSA business processes related to assistance programs; (7) serves as the agency's liaison with the Office of Inspector General for issues related to HRSA programs; (8) coordinates non-federal entities appeal actions for the Department on HRSA decisions related to HRSA programs; (9) coordinates the preparation of informational reports on high risk non-federal entities; (10) coordinates contractor audit/financial

assessment assignments; (11) responds to data requests; (12) serves as the HRSA liaison with the Department on the Single Audit Compliance Supplement update; (13) conducts internal audits; and (14) serves as the outreach to HRSA staff and non-federal entities to increase monitoring efforts for non-federal entities.

#### *Division of Grants Policy and Planning (RJ2)*

The Division of Grants Policy and Planning analyzes, develops and implements HRSA's federal assistance award policy in compliance with statutes, regulations, Government-wide administrative requirements and Departmental policy. The Division recommends internal procedures to ensure consistent and effective stewardship of taxpayer dollars.

#### *Division of Grants Management Operations (RJ3)*

The Division of Grants Management Operations exercises responsibility within HRSA for all business aspects of grant and cooperative agreement award and post-award processes, and participates in the planning, development, and implementation of policies and procedures for grants and other federal financial assistance mechanisms. Specifically, the Division of Grants Management Operations: (1) Plans, directs and carries out the grants officer functions for all of HRSA's grant programs as well as awarding official functions for various scholarship, loan, and loan repayment assistance programs; (2) participates in the planning, development, and implementation of policies and procedures for grants and cooperative agreements; (3) provides assistance and technical consultation to program offices and grantees in the application of laws, regulations, policies, and guidelines relative to the agency's grant and cooperative agreement programs; (4) develops standard operating procedures, methods, and materials for the administration of the agency's grants programs; (5) establishes standards and guides for grants management operations; (6) reviews grantee financial status reports and prepares reports and analyses on the grantee's use of funds; (7) provides technical assistance to applicants and grantees on financial and administrative aspects of grant projects; (8) provides data and analyses as necessary for budget planning, hearings, operational planning, and management decisions; (9) participates in the development of program guidance and instructions for grant competitions; (10) oversees contracts in support of receipt

of applications, records management, and grant closeout operations; and (11) supports post-award monitoring and closeout by analyzing payment management system data and working with grants and program office staff.

#### *Division of Independent Review (RJ4)*

The Division of Independent Review is responsible for the management and oversight of HRSA's independent review of grant and cooperative agreement applications for funding. Specifically, the Division of Independent Review: (1) Plans, directs, and carries out HRSA's independent review of applications for grants and cooperative agreement funding, and assures that the process is fair, open, and competitive; (2) develops, implements, and maintains policies and procedures necessary to carry out the agency's independent review/peer review processes; (3) provides technical assistance to independent reviewers ensuring that reviewers are aware of and comply with appropriate administrative policies and regulations; (4) provides technical advice and guidance to the agency regarding the independent review processes; (5) coordinates and assures the development of program policies and rules relating to HRSA's extramural grant activities; and (6) provides HRSA's Offices and Bureaus with the final disposition of all reviewed applications.

### **Chapter RR—Health Systems Bureau**

#### *Section RR.10 Organization*

Re-establish, retain and rename the Health Systems Bureau (RR). The Health Systems Bureau (RR) is headed by the Associate Administrator, who reports directly to the Administrator, HRSA. The Health Systems Bureau (RR) includes the following components:

- Office of the Associate Administrator (RR);
- Division of Transplantation (RR1);
- Division of Injury Compensation Programs (RR4); and
- Division of National Hansen's Disease Program (RRH).

#### *Section RR.20 Function*

Establish the following functional statement for the Health Systems Bureau (RR):

#### *Office of the Associate Administrator (RR)*

The Health Systems Bureau leads the agency in providing health care programs to eligible organizations around the country. Specifically, the Health Systems Bureau (1) oversees the implementation of blood stem cell and organ transplantation programs; (2)

manages the national program for compliance with the Hill-Burton uncompensated care requirement and other assurances; (3) administers community based and other grant awards; (4) directs and administers the National Vaccine Injury Compensation Program; (5) implements and administers the Countermeasures Injury Compensation Program; (6) provides professional and administrative support for the HHS Medical Review Claims Panel; and (7) manages the National Hansen's Disease Program in accordance with regulations of the Public Health Service.

#### *Division of Transplantation (RR1)*

The Division of Transplantation, on behalf of the Secretary of Health and Human Services, administers national systems to facilitate solid organ and blood stem cell transplantation including: The Organ Transplantation Program, the C.W. Bill Young Cell Transplantation Program, the National Cord Blood Inventory, cross-cutting medical activities, and the breakthrough collaborative to increase the number of deceased donor organs made available for transplantation.

#### *Division of Injury Compensation Programs (RR4)*

The Division of Injury Compensation Programs, on behalf of the Secretary of HHS, implements all statutory and charter authorities related to the operations of the National Vaccine Injury Compensation Program, the Countermeasures Injury Compensation Program, and the HHS Medical Review Claims Panel by: (1) Evaluating claims for compensation filed under the National Vaccine Injury Compensation Program and the Countermeasures Injury Compensation Program through medical review and assessment of compensability for all complete claims; (2) processing awards for compensation made under the National Vaccine Injury Compensation Program and the Countermeasures Injury Compensation Program; (3) promulgating regulations to develop and revise Vaccine and Countermeasures Injury Tables; (4) providing professional and administrative support to the Advisory Commission on Childhood Vaccines (ACCV) and the Medical Claims Review Panel; (5) maintaining responsibility for activities related to the ACCV; (8) maintaining a working relationship with the Department of Justice (DOJ) and the U.S. Court of Federal Claims through the DOJ, in the administration and operation of the National Vaccine Injury Compensation Program; (9) providing management, direction, budgetary

oversight, coordination, and logistical support for the Medical Expert Panel, as well as Clinical Reviewer contracts; (10) developing, reviewing, and analyzing pending and new legislation relating to program changes, new initiatives, the ACCV, and changes to the Vaccine and Countermeasures Injury Tables; (11) providing programmatic outreach efforts to maximize public exposure to private and public constituencies; and (12) providing guidance in using the results and decisions of the Medical Claims Review Panel to HHS Operating Divisions to improve the quality of health care in its facilities and by its practitioners.

*Division of National Hansen's Disease Program (RRH)*

The National Hansen's Disease Program, in accordance with regulations and the Public Health Service (PHS) Act, Sec. 320 as amended by Public Law 105-78, Sec. 211, (1) provides care and treatment for persons with Hansen's Disease (leprosy), including managing a national short-term and outpatient health care delivery program providing specialized services to persons with Hansen's Disease; (2) conducts and promotes the coordination of research (including clinical research), investigations, demonstrations, and studies relating to the causes, diagnosis, treatment, control, and prevention of Hansen's disease and other mycobacterial diseases and complications related to such diseases; (3) conducts training in the diagnosis and management of Hansen's disease and related complications; (4) provides education and training to staff from the outpatient Hansen's Disease Clinics and to private physicians; (5) operates and oversees the National Hansen's Disease Museum and Cemetery; (6) consults on the coordination of activities within HRSA and HHS, and with other federal agencies, state and local governments, and other public and private organizations involved in Hansen's Disease activities; and (7) manages a network of contracted outpatient clinics providing care to persons with Hansen's Disease; and (8) manages and coordinates the National Hansen's Disease Program's administrative and operational activities with HRSA and HHS; other federal agencies, state and local governments; and other public and private organizations involved in Hansen's Disease activities.

*Section R.30 Delegation of Authority*

All prior delegations of authority and re-delegations of authority consistent with this reorganization are in effect. I affirm and ratify any actions taken by

HHS officials that involved the exercise of those authorities prior to the effective date of this reorganization.

(Authority: 44 U.S.C. 3101)

Dated: August 6, 2021.

**Xavier Becerra,**  
*Secretary.*

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BILLING CODE 4165-15-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

#### Agency Information Collection Activities: Proposed Collection: Public Comment Request Information Collection Request Title: Data System for Organ Procurement and Transplantation Network, OMB No. 0915-0157—Revision

**AGENCY:** Health Resources and Services Administration (HRSA), Department of Health and Human Services.

**ACTION:** Notice.

**SUMMARY:** In compliance with the requirement for the opportunity for public comment on proposed data collection projects of the Paperwork Reduction Act of 1995, HRSA announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

**DATES:** Comments on this ICR should be received no later than November 1, 2021.

**ADDRESSES:** Submit your comments to [paperwork@hrsa.gov](mailto:paperwork@hrsa.gov) or mail the HRSA Information Collection Clearance Officer, Room 14N136B, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email [paperwork@hrsa.gov](mailto:paperwork@hrsa.gov) or call Lisa Wright-Solomon, the HRSA Information Collection Clearance Officer at (301) 443-1984.

**SUPPLEMENTARY INFORMATION:** When submitting comments or requesting information, please include the information request collection title for reference.

*Information Collection Request Title:* Data System for Organ Procurement and Transplantation Network, OMB No. 0915-0157—Revision.

*Abstract:* Section 372 of the Public Health Service Act requires that the Secretary, by contract, provide for the establishment and operation of a private, non-profit entity: The Organ Procurement and Transplantation Network (OPTN). The data collected pursuant to the OPTN's regulatory authority in 42 CFR 121.11 of the OPTN Final Rule is collected through OMB approved data collection forms. Therefore, data approved for collection by the OPTN Board of Directors are submitted by HRSA for OMB approval under the Paperwork Reduction Act of 1995.

This is a request for revising the current OPTN data collection associated with an individual's clinical characteristics at the time of registration, transplant, and follow-up after the transplant to include data collection forms in the OPTN Organ Labeling, Packaging, and Tracking System, the OPTN Kidney Paired Donation Pilot Program (KPDPP), and the OPTN Patient Safety Reporting Portal (PSRP). This revision also includes OPTN Board of Directors approved changes to the existing OMB data collection forms. These specific data elements of the OPTN data system are collected from transplant hospitals, organ procurement organizations, and histocompatibility laboratories. The information is used to (1) facilitate organ placement and match donor organs with recipients; (2) monitor compliance of member organizations with Federal laws and regulations and with OPTN requirements; (3) review and report periodically to the public on the status of organ donation and transplantation in the United States; (4) provide data to researchers and government agencies to study the scientific and clinical status of organ transplantation; (5) perform transplantation-related public health surveillance including the possible transmission of donor disease.

HRSA is submitting the following changes to improve the OPTN organ matching and allocation process and improve OPTN member compliance with OPTN requirements. All of these proposed changes have been approved by the OPTN Board of Directors.

(1) Adding two data collection forms for the OPTN Organ Labeling, Packaging, and Tracking System to the existing OMB approved Data System for Organ Procurement and Transplantation Network. The system has two forms that are used through mobile and web-based applications to ensure the correct organ is transplanted into the correct patient, minimize labeling and transport errors, accelerate organ information transfer,

and capture data regarding organ procurement. OPTN Organ Labeling, Packaging, and Tracking System is comprised of two data collection forms: Organ labeling and packaging, and organ tracking and validating.

(2) Adding data collection forms for the OPTN KPDP to the existing OMB approved Data System for Organ Procurement and Transplantation Network. Kidney paired donation is a transplant option for those patients waiting for a kidney transplant who have a willing living donor who is medically able but cannot donate a kidney to their intended candidate because they are incompatible. OPTN KPDP matches living donors, and their intended candidates with other living donors or intended candidate pairs when the living donors cannot donate to the person(s) they initially hoped would receive their kidney. OPTN KPDP is comprised of three data collection forms: Candidate registration, donor registration, and match offer management.

(3) Adding data collection forms in the OPTN PSRP to the existing OMB approved Data System for Organ

Procurement and Transplantation Network. OPTN PSRP allows the OPTN to collect reports on any event or process variance that could cause concerns from transplantation, donation, safety, or quality perspective. OPTN PSRP is comprised of four data collection forms: Disease transmission event, living donor event, safety situation, and potential disease transmission.

(4) Additional revisions to existing data collection forms were made based on the OPTN Board of Directors-approved changes to improve organ matching, allocation, and OPTN policy compliance.

*Need and Proposed Use of the Information:* Data are used to develop transplant, donation, and allocation policies, to determine whether institutional members are complying with policy, to determine member-specific performance, to ensure patient safety, and to fulfill the requirements of the OPTN Final Rule. The practical utility of the data collection is further enhanced by requirements that the OPTN data must be made available, consistent with applicable laws, for use

by OPTN members, the Scientific Registry of Transplant Recipients, the Department of Health and Human Services, and members of the public for evaluation, research, patient information, and other important purposes.

*Likely Respondents:* Transplant programs, Organ Procurement Organizations, and Histocompatibility Laboratories.

*Burden Statement:* Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems to collect, validate, and verify information, process and maintain information, and disclose and provide information; to train personnel and be able to respond to a collection of information; to search data sources; to complete and review the collection of information, and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent *	Total responses	Average burden per response (in hours)	Total burden hours
Deceased Donor Registration .....	57	188.26	10,731	1.10	11,804
Living Donor Registration .....	300	22.85	6,855	2.19	<sup>a</sup> 15,012
Living Donor Follow-up .....	300	62.23	18,669	1.53	<sup>b</sup> 28,564
Donor Histocompatibility .....	147	123.99	18,227	0.20	3,645
Recipient Histocompatibility .....	147	225.10	33,090	0.40	13,236
Heart Transplant Candidate Registration .....	140	33.69	4,717	0.90	4,245
Heart Recipient Registration .....	140	24.33	3,406	1.20	4,087
Heart Follow Up (6 Month) .....	140	22.01	3,081	0.40	1,233
Heart Transplant Recipient Follow Up 1-5 Year .....	140	90.61	12,685	0.90	11,417
Heart Transplant Recipient Follow Up Post 5 Year .....	140	153.97	21,556	0.50	10,778
Heart Post-Transplant Malignancy Form .....	140	12.77	1,788	0.90	1,609
Lung Transplant Candidate Registration .....	71	45.21	3,210	0.90	2,889
Lung Transplant Recipient Registration .....	71	35.66	2,532	1.20	3,038
Lung Transplant Recipient Follow Up 6 Month .....	71	32.35	2,297	0.50	1,148
Lung Transplant Recipient Follow Up 1-5 Year .....	71	118.85	8,438	1.10	9,282
Lung Transplant Recipient Follow Up Post 5 Year .....	71	116.49	8,271	0.60	4,962
Lung- Post-Transplant Malignancy Form .....	71	19.72	1,400	0.40	560
Heart/Lung Transplant Candidate Registration .....	69	0.97	67	1.10	74
Heart/Lung Recipient Registration .....	69	0.46	32	1.30	41
Heart/Lung Transplant Recipient Follow Up 6 Month .....	69	0.45	31	0.80	25
Heart/Lung Transplant Recipient Follow Up 1-5 Year .....	69	1.14	79	1.10	87
Heart/Lung Transplant Recipient Follow Up Post 5 Year ...	69	3.30	228	0.60	137
Heart/Lung Post-Transplant Malignancy Form .....	69	0.30	21	0.40	8
Liver Transplant Candidate Registration .....	146	90.29	13,182	0.80	10,546
Liver Transplant Recipient Registration .....	146	56.55	8,256	1.20	9,908
Liver Transplant Recipient Follow-Up 6 Month-5 Year ....	146	266.57	38,919	1.00	38,919
Liver Transplant Recipient Follow-up Post 5 Year .....	146	316.61	46,225	0.50	23,113
Liver Recipient Explant Pathology Form .....	146	10.58	1,545	0.60	927
Liver Post-Transplant Malignancy .....	146	16.35	2,387	0.80	1,910
Intestine Transplant Candidate Registration .....	20	6.95	139	1.30	181
Intestine Transplant Recipient Registration .....	20	5.20	104	1.80	187
Intestine Transplant Recipient Follow Up 6 Month-5 Year .....	20	26.20	524	1.50	786
Intestine Transplant Recipient Follow Up Post 5 Year .....	20	37.20	744	0.40	298
Intestine Post-Transplant Malignancy Form .....	20	2.10	42	1.00	42
Kidney Transplant Candidate Registration .....	237	168.77	39,998	0.80	31,999

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Form name	Number of respondents	Number of responses per respondent*	Total responses	Average burden per response (in hours)	Total burden hours
Kidney Transplant Recipient Registration .....	237	89.43	21,195	1.20	25,434
Kidney Transplant Recipient Follow-Up 6 Month—5 Year ..	237	431.86	102,351	0.90	92,116
Kidney Transplant Recipient Follow-Up Post 5 Year .....	237	449.40	106,508	0.50	53,254
Kidney Post-Transplant Malignancy Form .....	237	22.64	5,366	0.80	4,293
Pancreas Transplant Candidate Registration .....	133	2.77	368	0.60	221
Pancreas Transplant Recipient Registration .....	133	1.46	194	1.20	233
Pancreas Transplant Recipient Follow-Up 6 Month—5 Year .....	133	7.87	1,047	0.50	523
Pancreas Transplant Recipient Follow-Up Post 5 Year .....	133	15.93	2,119	0.50	1,059
Pancreas Post-Transplant Malignancy Form .....	133	0.73	97	0.60	58
Kidney/Pancreas Transplant Candidate Registration .....	133	9.75	1,297	0.60	778
Kidney/Pancreas Transplant Recipient Registration .....	133	7.73	1,028	1.20	1,234
Kidney/Pancreas Transplant Recipient Follow-Up 6 Month—5 Year .....	133	32.80	4,362	0.50	2,181
Kidney/Pancreas Transplant Recipient Follow-Up Post 5 Year .....	133	57.80	7,687	0.60	4,612
Kidney/Pancreas Post-Transplant Malignancy Form .....	133	2.20	293	0.40	117
VCA Transplant Candidate Registration .....	27	0.89	24	0.40	11
VCA Transplant Recipient Registration .....	27	1.59	43	1.36	<sup>c</sup> 58
VCA Transplant Recipient Follow Up .....	27	0.67	18	1.31	<sup>d</sup> 24
Organ Labeling and Packaging .....	57	208.25	11,870	0.18	2,137
Organ Tracking and Validating .....	34	169.06	5,748	0.08	460
Kidney Paired Donation Candidate Registration .....	160	1.38	221	0.29	64
Kidney Paired Donation Donor Registration .....	160	1.46	234	1.07	250
Kidney Paired Donation Match Offer Management .....	160	1.51	242	0.67	162
Disease Transmission Event .....	308	1.44	444	0.62	275
Living Donor Event .....	251	0.12	30	0.56	17
Safety Situation .....	450	0.48	216	0.56	121
Potential Disease Transmission .....	57	6.88	392	1.27	498
Request to Unlock .....	450	39.22	17,649	0.02	353
<b>Total .....</b>	<b>8,290</b>	<b>.....</b>	<b>604,519</b>	<b>.....</b>	<b>437,240</b>

\* The Number of Responses per Respondent was calculated by dividing the Total Responses by the Number of Respondents and rounding to the nearest tenth.

<sup>a</sup> Total burden increased due to the approval of the “Modify Data Collection on VCA Living Donors” proposal approved by the OPTN Board of Directors (BOD) in December of 2020. The proposal required adding 54 new data fields onto this form and removing 1 data field from this form.

<sup>b</sup> Total burden increased due to the approval of the “Modify Data Collection on VCA Living Donors” proposal approved by the OPTN BOD in December of 2020. The proposal required adding 17 new data fields onto this form.

<sup>c</sup> Total burden increased due to the approval of the “Programming VCA Allocation in UNet” proposal approved by the OPTN BOD in December of 2020. The proposal required adding 16 new data fields onto this form and removing 10 data fields from this form.

<sup>d</sup> Total burden increased due to the approval of the “Programming VCA Allocation in UNet” proposal approved by the OPTN BOD in December of 2020. The proposal required adding 54 new data fields onto this form and removing 5 data fields from this form.

HRSA specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency’s functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

**Maria G. Button,**

*Director, Executive Secretariat.*

[FR Doc. 2021–18688 Filed 8–30–21; 8:45 am]

**BILLING CODE 4165–15–P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Establishment of the Office of Climate Change and Health Equity**

**AGENCY:** Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

**ACTION:** Notice.

**Statement of Organization, Functions, and Delegations of Authority**

Part A, Office of the Secretary, Statement of Organization, Function, and Delegation of Authority for the U.S. Department of Health and Human Services (HHS) is being amended at Chapter AC, Office of the Assistant Secretary for Health (OASH), as last amended at 75 FR 53304, dated August 31, 2010, and 72 FR 58095–96, dated

October 12, 2007. Executive Order 14008, *Tackling the Climate Crisis at Home and Abroad*, section 222(d), directs the Secretary of Health and Human Services to establish an Office of Climate Change and Health Equity to address the impact of climate change on the health of the American people. This amendment reflects the establishment of an office to address the impact of climate change on the health of the American people and to empower individuals through information, data, and scientific approaches to pursue environmental justice. Specifically, this notice establishes the Office of Climate Change and Health Equity in the OASH. The changes are as follows:

A. Under Part A, Chapter AC, under the Office of the Assistant Secretary for Health, add the following:

1. The Office of Climate Change and Health Equity (OCCHE), is headed by a

Director who reports to the Assistant Secretary for Health.

2. OCCHE shall work with the Immediate Office of the Secretary, Staff Divisions, and Operating Divisions to focus on:

- Identifying communities with disproportionate exposures to climate hazards and vulnerable populations.
- Addressing health disparities exacerbated by climate impacts to enhance community health resilience.
- Promoting and translating research on public health benefits of multi-sectoral climate actions.
- Supporting regulatory efforts to reduce greenhouse gas emissions and criteria air pollution throughout the health care sector, including participating suppliers and providers.
- Fostering innovation in climate adaptation and resilience for people and communities experiencing a disproportionate share of climate impacts and health inequities.
- Providing expertise and coordination to the White House and other Federal agencies related to climate change and health equity deliverables and activities, including executive order implementation, and reporting on health adaptation actions under the United Nations Framework Convention on Climate Change.
- Promoting training opportunities to build the climate and health workforce and empower communities.
- Exploring opportunities to partner with the philanthropic and private sectors to support innovative programming to address disparities and health sector transformation.

#### Delegations of Authority

Directives or orders made by the Secretary or the Assistant Secretary for Health, including all delegations and re-delegations of authority made to officials and employees of affected organizational components will continue in force pending further delegation, if allowed, provided they are consistent with this realignment.

**Andrea Palm,**

*Deputy Secretary.*

[FR Doc. 2021-18794 Filed 8-30-21; 8:45 am]

**BILLING CODE 4150-03-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Center for Advancing Translational Sciences; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Center for Advancing Translational Sciences Advisory Council.

The meeting will be open to the public as indicated below. The open session will be videocast and can be accessed from the NIH Videocasting and Podcasting website (<http://videocast.nih.gov>). Individuals who need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Center for Advancing Translational Sciences Advisory Council.

*Date:* September 23–24, 2021.

*Closed:* September 23, 2021, 10:30 a.m. to 12:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Center for Advancing Translational Sciences, National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Room 987/989, Bethesda, MD 20892 (Virtual Meeting).

*Open:* September 23, 2021, 1:00 p.m. to 5:00 p.m.

*Agenda:* Report from the Institute Director and other staff.

*Place:* National Center for Advancing Translational Sciences, National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Room 987/989, Bethesda, MD 20892 (Virtual Meeting).

*Open:* September 24, 2021, 1:00 p.m. to 5:00 p.m.

*Agenda:* To view and discuss Clearance of Concepts.

*Place:* National Center for Advancing Translational Sciences, National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Room 987/989, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Anna L. Ramsey-Ewing, Ph.D., Executive Secretary, National Center

for Advancing Translational Sciences, One Democracy Plaza, Room 1072, Bethesda, MD 20892, 301-435-0809, [anna.ramseyewing@nih.gov](mailto:anna.ramseyewing@nih.gov).

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice no later than 15 days after the meeting at [NCATSCouncilInput@mail.nih.gov](mailto:NCATSCouncilInput@mail.nih.gov). The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

(Catalogue of Federal Domestic Assistance Program Nos. 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.350, B—Cooperative Agreements; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: August 25, 2021.

**David W. Freeman,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021-18727 Filed 8-30-21; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### Submission for OMB Review; 30-Day Comment Request; Evaluation of Office of Acquisitions System (OASYS) and FFRDC Contract Administration System (FCAS) Vendor Portals National Cancer Institute (NCI)

**AGENCY:** National Institutes of Health, HHS.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

**DATES:** Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** Marla Jacobson, 9609 Medical Center Drive, MSC 9742, Rockville, MD 20850 or call non-toll-free number 240-276-

5267 or Email your request, including your address to: *marla.jacobson@nih.gov*. Formal requests for additional plans and instruments must be requested in writing.

**SUPPLEMENTARY INFORMATION:** This proposed information collection was previously published in the **Federal Register** on May 19, 2021, page 27093 (Vol. 86 FR 27093) and allowed 60 days for public comment. No public comments were received. The National Cancer Institute (NCI), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

*Proposed Collection:* Evaluation of Office of Acquisitions System (OASYS)

and FFRDC Contract Administration System (FCAS) Vendor Portals National Cancer Institute (NCI), 0925–NEW, Expiration Date XX/XX/XXXX, NEW, National Cancer Institute (NCI), National Institutes of Health (NIH).

*Need and Use of Information Collection:* The National Cancer Institute (NCI) Office of Acquisitions (OA), located within the Office of the Director (OD) in the Office of Management (OM) at the National Cancer Institute (NCI), awards and administers contracts and simplified acquisitions in support of the Institute’s mission to prevent, diagnose and treat cancer. During the acquisition process, the OA ensures that customer service is paramount, and communications are open and continuous. Currently requests and correspondence are sent to and received from vendors through email with the exception of the FFRDC Contractor who submits through the FCAS Vendor Portal which is in production. To streamline processes, increase transparency and gain efficiencies, the OA developed OASYS and FCAS vendor portals to replace processes that are handled through

email (future OASYS Vendor Portal Users) and were (current FCAS Vendor Portal Users) to individual OA recipients. The FCAS Vendor Portal and in the future, the OASYS Vendor Portal will serve as a one-stop shop for transmission of requests, reports, deliverables and other correspondence due on numerous research and development, in support of R&D contracts as well as those contract vehicles awarded using various Federal Acquisition Procedures including but not limited to FAR Part 8, Required Sources of Supplies and Services, FAR Part 13, Simplified Acquisition Procedures, and FAR Part 12, Acquisition of Commercial Items. These reports and deliverables cover a wide variety of topics in the areas of cancer research including prevention, detection, diagnosis, and control.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 232.

**ESTIMATED ANNUALIZED BURDEN HOURS**

Form name	Type of respondent	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hours
Survey—OASYS .....	Individuals .....	10	1	6/60	1
Survey—FCAS .....	Individuals .....	1	1	6/60	1
Registration—OASYS .....	Corporations .....	400	1	6/60	40
Registration—FCAS .....	Corporations .....	1	1	6/60	1
Data Field Information—OASYS .....	Individuals .....	400	18	1/60	120
Data Field Information—FCAS .....	Individuals .....	61	63	1/60	64
Add/Edit new Vendor User—OASYS .....	Corporations .....	40	1	6/60	4
Add/Edit new Vendor User—FCAS .....	Corporations .....	6	1	6/60	1
<b>Totals .....</b>	.....	<b>919</b>	<b>11,501</b>	.....	<b>232</b>

Dated: August 26, 2021.  
**Vivian Horovitch-Kelley**,  
*Project Clearance Liaison, National Cancer Institute, National Institutes of Health.*  
 [FR Doc. 2021–18767 Filed 8–30–21; 8:45 am]  
**BILLING CODE 4140–01–P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**National Institutes of Health**

**National Institute of Environmental Health Sciences; Amended Notice of Meeting**

Notice is hereby given of a change in the meeting of the National Heart, Lung, and Blood Advisory Council, August 31, 2021–September 1, 2021, National Institutes of Health, Bethesda,

Maryland, 20892, which was published in the **Federal Register** on August 4, 2021, FR Doc 2021–16549, 86 FR 41983.

This notice is being amended to change the start time for the second Open session on September 1, 2021, which will now be 12:30 p.m. and will still end at 2:30 p.m. as listed. The meeting is closed to the public.

Dated: August 25, 2021.  
**David W. Freeman**,  
*Program Analyst, Office of Federal Advisory Committee Policy.*  
 [FR Doc. 2021–18725 Filed 8–30–21; 8:45 am]  
**BILLING CODE 4140–01–P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**National Institutes of Health**

**National Human Genome Research Institute; Notice of Meeting**

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Council for Human Genome Research.

The meeting will be open to the public as indicated below, the 94th meeting of the National Advisory Council for Human Genome Research open session will be livestreamed and available for viewing to the public from <https://www.genome.gov/event-calendar/94th-Meeting-of-National-Advisory-Council-for-Human-Genome->

*Research.* The open session will be on September 13th and the start time will be 10:00 a.m.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Advisory Council for Human Genome Research.

*Date:* September 13–14, 2021.

*Open:* September 13, 2021, 10:00 a.m. to 3:00 p.m.

*Agenda:* Report from Institute Director and Program Staff.

*Place:* National Human Genome Research Institute, National Institutes of Health, 6700B Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Closed:* September 13, 2021, 3:00 p.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Human Genome Research Institute, National Institutes of Health, 6700B Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Closed:* September 14, 2021, 8:30 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Human Genome Research Institute, National Institutes of Health, 6700B Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Rudy O. Pozzatti, Ph.D., Scientific Review Officer, Scientific Review Branch, National Human Genome Research Institute, 5635 Fishers Lane, Suite 4076, MSC 9306, Rockville, MD 20852, (301) 402–0838, [pozatttr@mail.nih.gov](mailto:pozatttr@mail.nih.gov).

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Information is also available on the Institute's/Center's home page: <http://www.genome.gov/council>, where an agenda and any additional information for the meeting will be posted when available. (Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: August 25, 2021.

**David W. Freeman,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021–18726 Filed 8–30–21; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Member Conflict: Bioengineering, Cellular and Circuit Neuroscience.

*Date:* October 1, 2021.

*Time:* 9:00 a.m. to 4:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

*Contact Person:* Jyothi Arikath, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5215, Bethesda, MD 20892, (301) 435–1042, [arikathj2@mail.nih.gov](mailto:arikathj2@mail.nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; RFA–RM–21–020: Cutting Edge Informatics Tools for Illuminating the Druggable Genome (U01).

*Date:* October 5, 2021.

*Time:* 10:00 a.m. to 4:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

*Contact Person:* Noffisat Oki, Ph.D., Scientific Review Officer, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, (240) 627–3648, [noffisat.oki@nih.gov](mailto:noffisat.oki@nih.gov).

*Name of Committee:* Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Neuroscience of Basic Visual Processes Study Section.

*Date:* October 6–7, 2021.

*Time:* 9:00 a.m. to 7:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

*Contact Person:* Kirk Thompson, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5184,

MSC 7844, Bethesda, MD 20892, 301–435–1242, [kgt@mail.nih.gov](mailto:kgt@mail.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 25, 2021.

**David W. Freeman,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021–18728 Filed 8–30–21; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6280–D–01]

### Redelegation of Authority for the Office of Field Policy and Management

**AGENCY:** Office of Field Policy and Management, Housing and Urban Development (HUD).

**ACTION:** Notice of redelegation of authority.

**SUMMARY:** Through this notice, the Assistant Deputy Secretary for Field Policy and Management and the Director for Field Policy and Management redelegate certain operational management authority to the HUD Regional Administrators located in Region I (Boston, MA); Region II (New York, NY); Region III (Philadelphia, PA); Region IV (Atlanta, GA); Region V (Chicago, IL); Region VI (Fort Worth, TX); Region VII (Kansas City, KS); Region VIII (Denver, CO); Region IX (San Francisco, CA); and Region X (Seattle, WA).

**DATES:** *Applicable Date:* August 25, 2021.

**FOR FURTHER INFORMATION CONTACT:** John B. Shumway, Assistant General Counsel, Administrative Law Division, Department of Housing and Urban Development, at 451 7th Street SW, Room 9262; Washington, DC 20410–0500 or telephone number 202–402–5190 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the Federal Relay Service at 800–877–8339 (this is a toll-free number).

**SUPPLEMENTARY INFORMATION:** In October 2020, the Secretary of HUD delegated to the Assistant Deputy Secretary for Field Policy and Management and the Director for Field Policy and Management authority for the management and oversight of the Department's field operations, which was published in the **Federal Register** at



85 FR 62753. In that notice, the Assistant Deputy Secretary for Field Policy and Management and Director for Field Policy and Management were authorized to redelegate such authority. Through this notice, the Assistant Deputy Secretary for Field Policy and Management and the Director for Field Policy and Management redelegate certain operational management authority to the HUD Regional Administrators. This notice supersedes all prior redelegations to the HUD Regional Administrators.

### Section I: Authority Redelegated

A. *Cross-Program Coordination.* Each Regional Administrator is redelegated the following duties:

1. Develop and implement place-based Regional and Field Operating Plans in consultation with field Program Directors.
2. To develop, approve, track, and oversee the Regional Operating Plan priority projects and initiatives that cross program office lines.
3. Prepare briefing papers and hot issue reports.
4. Lead disaster relief efforts.
5. Convene on-site program teams (e.g., Community Planning and Development, Office of General Counsel, Fair Housing and Equal Opportunity, Public and Indian Housing, etc.), as necessary and in consultation with field Program Directors, to review proposed major projects or initiatives for place-based impact.
6. Assist state and local housing officials in assessing the impact of housing foreclosures.
7. Convene place-based teams, as necessary and in consultation with field program directors, to review Consolidated Plans during the 45-day review period.
8. Provide comments to Public and Indian Housing field directors on public housing disposal and/or demolition applications.
9. Review with other program leaders the status of the HUD-VASH program to maximize utilization.
10. Consult with Program Directors regarding implementation of departmental management goals, Secretarial and Presidential initiatives, and Annual Performance Plan commitments. Regional Administrators can request review by Headquarters of decisions made by Program Directors. Where the Regional Administrator and relevant Program Director disagree on a major program decision, the Regional Administrator may report the disagreement to the Assistant Deputy Secretary for Field Policy and

Management, who may then raise the matter with the relevant Assistant Secretary or equivalent. The relevant Assistant Secretary or equivalent makes the final determination, subject to review by the Deputy Secretary, as necessary.

B. *Administrative Management.* Each Regional Administrator is delegated the following administrative duties:

1. Manage administrative field operations, applicable to all employees at a duty location, including out-stationed personnel, through coordination with Program Directors administrative offices, and supervisors of out stationed personnel. Administrative field operations include, but are not limited to:
  - Determining official local office hours of operation.
  - Determining emergency office closings due to weather, disaster, or local events.
  - Providing effective customer service.
  - Working with Program Directors and all employees to foster a positive working environment.
  - Coordinating with the Office of Administration (and its Office of Administration Regional Support Manager) to develop and manage an administrative budget that meets the needs of programs and staff in each office.
  - Managing internal office communications of a general nature.
2. Regional Administrators may request a waiver of specific directives and handbook provisions pertaining to programs in the offices of Housing, Public and Indian Housing, Community Planning and Development, and Fair Housing and Equal Opportunity. Waiver is not authorized for the HUD Litigation Handbook and regulations, or those departmental directives and handbook provisions mandated by or directly predicated on a statute, Executive Order, or regulation. Waiver requests by a Regional Administrator will be forwarded to the Assistant Deputy Secretary for Field Policy and Management, who will forward the requests to the respective program Assistant Secretary for final decision. All waiver requests must be in writing and specify the grounds for requesting the waiver. Regional Administrators will be notified in writing of the program Assistant Secretary's decision, through the Office of Field Policy and Management leadership. Only the program Assistant Secretary, or other program office officials with delegated authority to do so, may grant waivers or make a specific delegation of waiver authority.

C. *Representation.* Each Regional Administrator is redelegated the following duties:

1. Serve as the lead point of contact for non-tribal local elected or appointed officials.
2. Serve as one of the principal points of contact with industry groups with the support of and in consultation with field Program Directors.
3. Oversee labor/management relations in the region in coordination with the assigned Employee and Labor Relations representative.
  - Based on information provided by the Office of the Chief Human Capital Officer/Employee and Labor Relations Division and with input by the Office of General Counsel, the Regional Administrator will provide the Assistant Deputy Secretary for Field Policy and Management with regular reports on all open and active labor/management cases that are in process.
4. Work with Headquarters offices, including the Office of Congressional and Intergovernmental Relations, to ensure that federal, state, local, and tribal elected officials within a jurisdiction receive responsive and coordinated customer service. This in no way supersedes the Secretary's delegation of authority to the Assistant Secretary for Congressional and Intergovernmental Relations on October 7, 2011 (**Federal Register** Docket No. FR-5515-D-01), in which the Secretary delegates to the Assistant Secretary for Congressional and Intergovernmental Relations authority and responsibility for coordinating congressional and intergovernmental relations activities.
5. Manage all field-controlled congressional and intergovernmental correspondence, in consultation with field Program Directors and in coordination with the Executive Secretariat (Office of Administration) and the Office of Congressional and Intergovernmental Relations.
6. Respond to all media inquiries in conjunction with Headquarters' Office of Public Affairs and field Program Directors.
7. Administer the local office's web page and internet sources, in coordination with the Office of Public Affairs.
8. Monitor and evaluate customer service.
9. Enter into co-sponsorship agreements, with the concurrence of the General Counsel and the relevant program Assistant Secretary or equivalent.

### Section II: Authority To Redelegate

Except for those authorities specifically excluded in Section III of

this notice, this authority may be redelegated, as appropriate, from Regional Administrators to Field Office Directors and Deputy Regional Administrators within the respective jurisdictions.

### Section III: Authority Nonredelegable

The following authorities may not be redelegated from the Regional Administrators to the Field Office Directors or to any other employee:

1. The authority to enter into co-sponsorship agreements.
2. The authority to request waivers as provided by section I.B.2. above.
3. The authority to sign local, area-wide, or center-wide negotiated impact and implementation or memorandum of understanding agreements with unions representing smaller units consisting of either Headquarters and/or field employees on issues confined to a single program area and within the Regional Administrators' own budget authority, including the resolution of unfair labor practice charges and bargaining impasses.

### Section IV: Authority Superseded

This notice supersedes all prior redelegations of authority to the Regional Administrators from the Secretary of HUD, the Assistant Deputy Secretary for Field Policy and Management, or the Director for Field Policy and Management.

*Authority:* Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

**Michele Perez,**

*Assistant Deputy Secretary for Field Policy and Management.*

[FR Doc. 2021-18722 Filed 8-30-21; 8:45 am]

BILLING CODE 4210-67-P

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-7034-N-49]

### 30-Day Notice of Proposed Information Collection: Local Appeals to Single-Family Mortgage Limits; OMB Control No.: 2502-0302

**AGENCY:** Office of the Chief Information Officer, Housing and Urban Development (HUD).

**ACTION:** Notice.

**SUMMARY:** HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

**DATES:** *Comments Due Date:* September 30, 2021.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/StartPrintedPage15501PRAMain](http://www.reginfo.gov/public/do/StartPrintedPage15501PRAMain). Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** Colette Pollard, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410-5000; telephone 202-402-3400 (this is not a toll-free number) or email at [Colette.Pollard@hud.gov](mailto:Colette.Pollard@hud.gov) for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the Federal Relay Service at (800) 877-8339 (this is a toll-free number).

**SUPPLEMENTARY INFORMATION:** This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on May 7, 2021, at 86 FR 24654.

### A. Overview of Information Collection

*Title of Information Collection:* Local Appeals to Single-Family Mortgage Limits.

*OMB Approval Number:* 2502-0302.

*Type of Request:* Extension.

*Form Number:* N/A.

*Description of the need for the information and proposed use:* Any interested party may submit a request for the mortgage limits to be increased in a particular area if they believe that the present limit does not accurately reflect the higher sales prices in that area. Any request for an increase must be accompanied by sufficient housing sales price data to justify higher limits. This allows HUD the opportunity to examine additional data to confirm or adjust the set loan limit for a particular area.

*Respondents:* Business and other for-profit.

*Estimated Number of Respondents:* 182.

*Estimated Number of Responses:* 182.

*Frequency of Response:* 1.

*Average Hours per Response:* 7.

*Total Estimated Burdens:* 1274.

### B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

(5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

HUD encourages interested parties to submit comment in response to these questions.

### C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507.

**Colette Pollard,**

*Department Reports Management Officer, Office of the Chief Information Officer.*

[FR Doc. 2021-18718 Filed 8-30-21; 8:45 am]

BILLING CODE 4210-67-P

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[FR-6280-D-02]

### Order of Succession for the Office of Field Policy and Management

**AGENCY:** Office of Field Policy and Management, HUD.

**ACTION:** Notice of order of succession.

**SUMMARY:** In this notice, the Assistant Deputy Secretary for Field Policy and Management for the Department of Housing and Urban Development designates the Order of Succession for the Office of Field Policy and Management. This Order of Succession supersedes all prior orders of succession for the Office of Field Policy and Management, including the Order of Succession published in the **Federal Register** on October 19, 2012.

**DATES:** *Applicable Date:* August 31, 2021.

**FOR FURTHER INFORMATION CONTACT:** John B. Shumway, Assistant General Counsel, Administrative Law Division, Department of Housing and Urban Development, at 451 7th Street SW, Room 9262; Washington, DC 20410–0500 or telephone number 202–402–5190 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the Federal Relay Service at 800–877–8339 (this is a toll-free number).

**SUPPLEMENTARY INFORMATION:** The Assistant Deputy Secretary for Field Policy and Management for the Department of Housing and Urban Development is issuing this Order of Succession of officials authorized to perform the functions and duties of the Office of Field Policy and Management when, by reason of absence, disability, or vacancy in office, the Assistant Deputy Secretary for Field Policy and Management is not available to exercise the powers or perform the duties of the office. This Order of Succession is subject to the provisions of the Federal Vacancies Reform Act of 1998 (5 U.S.C. 3345–3349d). This publication supersedes all prior Orders of Succession for the Office of Field Policy and Management, including the Order of Succession published in the **Federal Register** on October 19, 2012 (77 FR 64394).

Accordingly, the Assistant Deputy Secretary for Field Policy and Management designates the following Order of Succession:

#### Section A. Order of Succession

Subject to the provisions of the Federal Vacancies Reform Act of 1998, during any period when, by reason of absence, disability, or vacancy in office, the Assistant Deputy Secretary for Field Policy and Management for the Department of Housing and Urban Development is not available to exercise the powers or perform the duties of the Assistant Deputy Secretary, the following officials within the Office of Field Policy and Management are hereby designated to exercise the powers and perform the duties of the Office. No individual who is serving in an office listed below in an acting capacity may act as the Assistant Deputy Secretary for Field Policy and Management pursuant to this Order of Succession.

(1) Director for Field Policy and Management;

(2) Deputy Director for Field Policy and Management;

(3) Director of Field Operations and Support; and

(4) Regional Administrator, HUD Region V.

These officials shall perform the functions and duties of the office in the order specified herein, and no official shall serve unless all the other officials, whose position titles precede his/hers in this order, are unable to act by reason of absence, disability, or vacancy in office.

#### Section B. Authority Superseded

This Order of Succession supersedes all prior Orders of Succession for the Office of Field Policy and Management, including the Order of Succession published in the **Federal Register** on October 19, 2012 (77 FR 64394).

*Authority:* Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

**Michele Perez,**

*Assistant Deputy Secretary for Field Policy and Management.*

[FR Doc. 2021–18720 Filed 8–30–21; 8:45 am]

**BILLING CODE 4210–67–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[Docket No. FWS–R7–ES–2021–0002; FF07Camm00–FX–ES11607MRG01]

#### Marine Mammals; Letters of Authorization To Take Pacific Walrus and Polar Bears in the Beaufort Sea, Alaska, in 2019 and 2020 and Northern Sea Otters in Cook Inlet, Alaska in 2019 and 2020

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of issuance.

**SUMMARY:** In accordance with the Marine Mammal Protection Act of 1972, as amended, the U.S. Fish and Wildlife Service has issued Letters of Authorization for the nonlethal take of polar bears and Pacific walrus incidental to oil and gas industry exploration, development, and production activities in the Beaufort Sea and the adjacent northern coast of Alaska as well as northern sea otters in Cook Inlet, Alaska, in 2019 and 2020. This notice announces a list of the Letters of Authorizations that were issued in calendar years 2019 and 2020. The Letters of Authorization stipulate conditions and methods that minimize impacts to polar bears, Pacific walrus, and northern sea otters from these activities.

**ADDRESSES:** *Document availability:* You may view this notice as well as the Letters of Authorization at <http://www.regulations.gov> under Docket No. FWS–R7–ES–2021–0002, or these documents may be requested as described under **FOR FURTHER INFORMATION CONTACT**.

**FOR FURTHER INFORMATION CONTACT:** Charles Hamilton, Marine Mammal Management, U.S. Fish and Wildlife Service, MS 341, 1011 East Tudor Road, Anchorage, Alaska 99503, by email at [R7mmmRegulatory@fws.gov](mailto:R7mmmRegulatory@fws.gov) or by telephone at 1–800–362–5148. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339, 24 hours a day, 7 days a week.

**SUPPLEMENTARY INFORMATION:** On August 5, 2016, the U.S. Fish and Wildlife Service published in the **Federal Register** a final rule (81 FR 52276) establishing regulations that allow us to authorize the nonlethal, incidental, unintentional take of small numbers of polar bears (*Ursus maritimus*) and Pacific walrus (*Odobenus rosmarus divergens*) during year-round oil and gas industry exploration, development, and production activities in the Beaufort Sea and adjacent northern coast of Alaska. The rule established subpart J in part 18 of title 50 of the Code of Federal Regulations (CFR) and is effective through August 5, 2021. The rule prescribed a process under which we issue Letters of Authorization (LOA) to applicants conducting activities as described under the provisions of the regulations.

Each LOA stipulates conditions or methods that are specific to the activity and location. Holders of the LOAs must use methods and conduct activities in a manner that minimizes to the greatest extent practicable adverse impacts on Pacific walrus and polar bears and their habitat, and on the availability of these marine mammals for subsistence purposes. Intentional take and lethal incidental take are prohibited under these regulations.

In accordance with section 101(a)(5)(A) of the Marine Mammal Protection Act (MMPA; 16 U.S.C. 1361 *et seq.*) and our regulations at 50 CFR part 18, subpart J, in 2019 and 2020 we issued LOAs to each of the companies in the Beaufort Sea and adjacent northern coast of Alaska shown below in table 1.

TABLE 1—BEAUFORT SEA LETTERS OF AUTHORIZATION

Year	Company	Activity	Project	LOA #
2019	Caelus Natural Resources Alaska, LLC.	Close-out and amendment.	Transferring ownership of Oooguruk to Eni U.S. Operation Company, Inc., and Nuna to ConocoPhillips Alaska, Inc.	16–11 [amended].
2019	ConocoPhillips Alaska, Inc.	Acquisition	ConocoPhillips Alaska, Inc., acquired Nuna from Caelus.	16–13 [amended].
2019	ConocoPhillips Alaska, Inc.	Exploration and development.	Geotechnical surveys and installation at the proposed Willow airstrip; in support of development in the Bear Tooth Unit.	18–14 [amended].
2019	Oil Search Alaska	Exploration and support services.	Pikka field exploratory drilling, environmental surveys, and transportation activities.	19–01 [amended].
2019	Peak Oilfield Service Company, LLC.	Support services	Transportation activities on the North Slope	19–02.
2019	SAExploration	Exploration	Seismic activities in the Prudhoe Bay Unit	19–03.
2019	TGS–NOPEC Geophysical Company.	Exploration	3D seismic activities in the Beaufort Sea; north of the Colville River Delta.	19–04.
2019	BEM Systems, Incorporated.	Remediation	Former United States Air Force Bullen Point Short Range Radar Station.	19–05.
2019	BP Exploration (Alaska), Inc.	Demobilization	Liberty oil rig demobilization and removal	19–06.
2019	Chevron Environmental Management Company.	Support services	Debris removal at the former Kalubik Creek No. 1 wellsite on the North Slope.	19–07.
2019	Eni U.S. Operation Company, Inc.	Exploration, development, and production.	Nakaichuq and Oooguruk oilfields	19–08.
2019	Peak Oilfield Service Company, LLC.	Support services	Transportation activities on the North Slope	19–09.
2019	SAExploration	Support services	Summer cleanup and flyovers on the North Slope	19–10.
2019	PRA Petrotechnical Resources of Alaska.	Production and research	Monitoring the Hydrate 01 well in Kuparuk	19–11a.
2019	Brooks Range Petroleum Corporation.	Development	Mustang on the North Slope of Alaska	19–11b.
2019	Hilcorp Alaska, LLC	Support services	Arctic cod monitoring associated with the Liberty Project.	19–12.
2019	ConocoPhillips Alaska, Inc.	Development	Greater Mooses Tooth Two (MT7; GMT2)	19–14.
2019	SAExploration	Exploration and support services.	Seismic surveys and cleanup activities on the North Slope.	19–15.
2019	ConocoPhillips Alaska, Inc.	Exploration	Appraisal well drilling at Willow	19–16.
2019	SAExploration	Exploration and support services.	Winter seismic and cleanup activities associated with Willow, Narwhal, and Kuukpik.	19–17.
2019	ConocoPhillips Alaska, Inc.	Exploration, development, and support services.	Geotechnical surveys; installation of equipment and gravel/ice road development; sampling at Willow.	19–18.
2019	ConocoPhillips Alaska, Inc.	Exploration and development.	Fiord West Kuparuk Pilot Program	19–19.
2020	Hilcorp Alaska, LLC	Acquisition	Hilcorp Alaska, LLC, acquired all of BP Exploration (Alaska), Inc.'s interests and assets.	16–14 [amended].
2020	Olgoonik Construction Services.	Production	Plug and abandonment, surface remediation with the Simpson Wells Remediation Project.	20–01.
2020	Alyeska Pipeline Service Company.	Production	Operation and maintenance of the Trans-Alaska Pipeline System.	20–02.
2020	Oil Search Alaska	Exploration, development, support services.	Geotechnical boring, surveys, cleanup, installation of facilities and pipelines, and gravel farming at the Pikka Development.	20–03 [corrected].
2020	ConocoPhillips Alaska, Inc.	Development	Greater Mooses Tooth Two (MT7; GMT2)	20–04.
2020	Peak Oilfield Service Company, LLC.	Support services	Transportation activities on the North Slope	20–05 [corrected].
2020	Jade Energy, LLC	Development and support services.	Maritime barging and tundra ice road construction in the Point Thomson Unit.	20–06 [corrected]
2020	Olgoonik Construction Services.	Remediation	Permanent plugging, abandonment, and surface remediation for the Fish Creek and Inigok Legacy Wells Remediation Project.	20–07.
2020	ConocoPhillips P&A Program.	Development, support services.	Construction of an ice road, transportation, and cleanup activities in the National Petroleum Reserve—Alaska.	20–09.
2020	Emerald House, LLC	Support services	Transportation activities to the Peregrine Lease Block within the National Petroleum Reserve—Alaska.	20–10.
2020	ConocoPhillips Willow	Development	Construction for Willow	20–11.

TABLE 1—BEAUFORT SEA LETTERS OF AUTHORIZATION—Continued

Year	Company	Activity	Project	LOA #
2020 ....	Northern Energy Services.	Acquisition, close out, and support services.	Northern Energy Services acquired Peak Oilfield Service Company, LLC; transportation activities on the North Slope.	20–14.

On August 1, 2019, the Service published in the **Federal Register** a final rule (84 FR 37716) establishing regulations that allow us to authorize the nonlethal, incidental, unintentional take of small numbers of northern sea otters (*Enhydra lutris kenyoni*) during year-round oil and gas industry exploration, development, production, and transportation activities in the Cook Inlet of Alaska. The rule established subpart K in part 18 of title 50 of the CFR and is effective through August 1,

2024. The rule prescribed a process under which we issue LOAs to applicants conducting activities as described under the provisions of the regulations.

Each LOA stipulates conditions or methods that are specific to the activity and location. Holders of the LOAs must use methods and conduct activities in a manner that minimizes to the greatest extent practicable adverse impacts on northern sea otters and their habitat, and on the availability of northern sea

otters for subsistence purposes. Intentional take and lethal incidental take are prohibited under these regulations.

In accordance with section 101(a)(5)(A) of the Marine Mammal Protection Act (MMPA; 16 U.S.C. 1361 *et seq.*) and our regulations at 50 CFR part 18, subpart K, in 2019 and 2020 we issued LOAs to each of the following companies in the Cook Inlet of Alaska shown below in table 2.

TABLE 2—COOK INLET LETTERS OF AUTHORIZATION

Year	Company	Activity	Project	LOA #
2019 .....	Hilcorp Alaska, LLC .....	Exploration .....	3D seismic surveys in the Cook Inlet .....	19–CI–01
2019 .....	Hilcorp Alaska, LLC .....	Production .....	Routine maintenance activities on platforms and pipelines in the Cook Inlet.	19–CI–02
2020 .....	Hilcorp Alaska, LLC .....	Exploration .....	Geotechnical surveys in the Lower Cook Inlet .....	20–CI–01

**Authority:** We issue this notice under the authority of the MMPA (16 U.S.C. 1361 *et seq.*).

**Karen Cogswell,**  
Acting Regional Director, Alaska Region.  
[FR Doc. 2021–18770 Filed 8–30–21; 8:45 am]  
BILLING CODE 4333–15–P

**DEPARTMENT OF THE INTERIOR**

**Office of the Secretary**

[DOI–2019–0006; 201D0102DM, DS6510000, DLSN00000.000000, DX65103]

**Privacy Act of 1974; System of Records**

**AGENCY:** Office of the Secretary, Interior.  
**ACTION:** Notice of a modified system of records.

**SUMMARY:** Pursuant to the provisions of the Privacy Act of 1974, as amended, the Department of the Interior (DOI) proposes to modify the DOI–50, Insider Threat Program, system of records. The DOI Office of Law Enforcement and Security uses this system to identify potential threats to DOI resources and information assets and facilitate management of insider threat investigations, complaints, inquiries, and counterintelligence threat detection activities. DOI is publishing this revised system of records notice to reflect the

updated system location and system manager address, authorities, expand the scope of categories of individuals and categories of records in the modified system, propose new and modified routine uses, and provide general and administrative updates to the remaining sections of the notice. Additionally, DOI is publishing a Notice of Proposed Rulemaking elsewhere in the **Federal Register** to exempt this system of records from certain provisions of the Privacy Act. This modified system will be included in DOI’s inventory of record systems.

**DATES:** This modified system will be effective upon publication. New or modified routine uses will be effective September 30, 2021. Submit comments on or before September 30, 2021.

**ADDRESSES:** You may submit comments, identified by docket number [DOI–2019–0006], by any of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for sending comments.
- **Email:** [DOI\\_Privacy@ios.doi.gov](mailto:DOI_Privacy@ios.doi.gov). Include docket number [DOI–2019–0006] in the subject line of the message.
- **U.S. mail or hand-delivery:** Teri Barnett, Departmental Privacy Officer, U.S. Department of the Interior, 1849 C Street NW, Room 7112, Washington, DC 20240.

**Instructions:** All submissions received must include the agency name and docket number [DOI–2019–0006]. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

**Docket:** For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Teri Barnett, Departmental Privacy Officer, U.S. Department of the Interior, 1849 C Street NW, Room 7112, Washington, DC 20240, [DOI\\_Privacy@ios.doi.gov](mailto:DOI_Privacy@ios.doi.gov) or (202) 208–1605.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The DOI Office of Law and Enforcement and Security (OLES) maintains the Insider Threat Program system of records. This system of records helps the OLES manage insider threat matters and counterintelligence threat detection and prevention within the DOI. The Insider Threat Program was mandated by Presidential Executive Order 13587, issued October 7, 2011, which requires Federal agencies to establish an insider threat detection and prevention program to ensure the security of classified networks and the responsible sharing and safeguarding of classified information consistent with

appropriate protections for privacy and civil liberties. The OLES uses this system to detect, deter and mitigate potential threats to the DOI resources and information assets; facilitate insider threat investigations, complaints, and inquiries; and conduct counterintelligence threat detection activities.

Insider threats include attempted or actual espionage, subversion, sabotage, terrorism or extremist activities directed against the DOI and its personnel, facilities, resources, and activities; unauthorized use of or intrusion into proprietary information systems; unauthorized disclosure of classified, controlled unclassified, sensitive, or proprietary information or technology; and indicators of potential insider threats or other incidents that may indicate activities of an insider threat. This system may include information from any DOI bureau, office, program, record or source, and includes records from information security, personnel security, and systems security for both internal and external security threats.

The DOI is publishing this revised notice to update authorities, reflect the expanded scope of categories of records and categories of individuals covered by the modified system, add a new section to describe the purpose of the system, and provide general and administrative updates to the remaining sections of the notice in accordance with the Office of Management and Budget (OMB) Circular A-108, *Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act*. Additionally, the DOI is modifying existing routine uses to further provide clarity and transparency, and reflect updates consistent with standard DOI routine uses. The DOI is proposing new routine uses to facilitate the sharing of information with agencies and organizations as necessary to ensure the efficient and effective management of inquiries, investigations, or referrals related to insider threat or counterintelligence matters, promote the integrity of the records in the system, or carry out a statutory responsibility of the DOI or Federal Government.

Routine uses A, B, H, I, and O have been modified to provide additional clarification on external organizations and circumstances where disclosures are proper and necessary to facilitate insider threat investigations or comply with Federal requirements. Modified routine use J and new routine use K

allow the DOI to share information with appropriate Federal agencies or entities when reasonably necessary to respond to a breach of personally identifiable information and to prevent, minimize, or remedy the risk of harm to individuals or the Federal Government, or assist an agency in locating individuals affected by a breach in accordance with OMB Memorandum M-17-12, *Preparing for and Responding to a Breach of Personally Identifiable Information*.

Proposed routine use N allows sharing with the news media and the public, when it is necessary to preserve the confidence in the integrity of the DOI, demonstrate the accountability of its officers, employees, or individuals covered in the system, or where there exists a legitimate public interest in the disclosure of the information such as circumstances that support a legitimate law enforcement or public safety function, or protects the public from imminent threat of life or property. Proposed routine use R allows DOI to share information with third parties when necessary to obtain information pertinent to an investigation. Proposed routine use S allows DOI to share information with a public or professional licensing organization when there is an indication of potential violation of professional standards. Proposed routine use T facilitates sharing with other Federal agencies in support of authorized counterintelligence activities. Proposed routine use U allows DOI to share information with any individual, organization or entity to notify them of a serious threat to homeland security so they may guard against or respond to the threat when relevant to the protection of life, health or property. Proposed routine use V allows sharing of information with the House Committee on Oversight and Government Reform and the Senate Homeland Security and Governmental Affairs Committee pursuant to a written request made under 5 U.S.C. 2954. Proposed routine use W allows DOI to share information with Federal agencies or entities regarding counterintelligence or insider threat matters, to obtain information or guidance on the handling of the matter. Proposed routine use X allows DOI to share information with former DOI employees, contractors or individuals who were sponsored by DOI for security clearance to respond to official inquiries or to facilitate

communications or obtain information that is relevant and necessary for personnel related purposes or other official purpose as required by DOI. Proposed routine use Y facilitates sharing of records for audit and oversight purposes as authorized by law and where necessary and proper to the audit or oversight function. Proposed routine use Z allows DOI to share information with prospective or current employers to determine employment eligibility.

In a Notice of Proposed Rulemaking, which is published separately in the **Federal Register**, the DOI is proposing to exempt records maintained in this system from certain provisions of the Privacy Act pursuant to 5 U.S.C. 552a(k)(1) and (k)(5).

## II. Privacy Act

The Privacy Act of 1974, as amended, embodies fair information practice principles in a statutory framework governing the means by which Federal agencies collect, maintain, use, and disseminate individuals' records. The Privacy Act applies to records about individuals that are maintained in a "system of records." A "system of records" is a group of any records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. The Privacy Act defines an individual as a United States citizen or lawful permanent resident. Individuals may request access to their own records that are maintained in a system of records in the possession or under the control of the DOI by complying with DOI Privacy Act regulations at 43 CFR part 2, subpart K, and following the procedures outlined in the Records Access, Contesting Record, and Notification Procedures sections of this notice.

The Privacy Act requires each agency to publish in the **Federal Register** a description denoting the existence and character of each system of records that the agency maintains and the routine uses of each system. The revised DOI-50, Insider Threat Program, system of records notice is published in its entirety below. In accordance with 5 U.S.C. 552a(r), the DOI has provided a report of this system of records to the Office of Management and Budget and to Congress.

### III. Public Participation

You should be aware that your entire comment including your personally identifiable information, such as your address, phone number, email address, or any other personal information in your comment, may be made publicly available at any time. While you may request to withhold your personally identifiable information from public review, we cannot guarantee we will be able to do so.

**SYSTEM NAME AND NUMBER:**

INTERIOR/DOI-50, Insider Threat Program.

**SECURITY CLASSIFICATION:**

Classified and unclassified.

**SYSTEM LOCATION:**

Counterintelligence Unit, Office of Law Enforcement and Security, U.S. Department of the Interior, 12201 Sunrise Valley Drive, Reston, VA 20192.

**SYSTEM MANAGER(S):**

DOI Counterintelligence/Insider Threat Program Manager, Counterintelligence Unit, Office of Law Enforcement and Security, U.S. Department of the Interior, 12201 Sunrise Valley Drive, Reston, VA 20192.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Intelligence Reform and Terrorism Prevention Act of 2004, Public Law 108-458; Intelligence Authorization Act for FY 2010, Public Law 111-259; Title 28 U.S.C. 535, Investigation of Crimes Involving Government Officers and Employees; Limitations; Title 50 U.S.C. 402a, Coordination of Counterintelligence Activities; Executive Order 10450, Security Requirements for Government Employment, April 17, 1953; Executive Order 12333, United States Intelligence Activities (as amended); Executive Order 12829, National Industrial Security Program; Executive Order 12968, Access to Classified Information, August 2, 1995; Executive Order 13467, Reforming Processes Related to Suitability for Government Employment, Fitness for Contractor Employees, and Eligibility for Access to Classified National Security Information, June 30, 2008; Executive Order 13488, Granting Reciprocity on Excepted Service and Federal Contractor Employee Fitness and Reinvestigating Individuals in Positions of Public Trust, January 16, 2009; Executive Order 13526, Classified National Security Information; Executive Order 13587, Structural Reforms to Improve the Security of Classified Networks and the

Responsible Sharing and Safeguarding of Classified Information, October 7, 2011; Presidential Memorandum National Insider Threat Policy and Minimum Standards for Executive Branch Insider Threat Programs, November 21, 2012; and Security Executive Agent Directives issued by the Office of the Director of National Intelligence.

**PURPOSE(S) OF THE SYSTEM:**

The purposes of the Insider Threat Program system of records are to manage counterintelligence and insider threat matters; facilitate insider threat investigations and activities associated with counterintelligence complaints, inquiries and investigations; identify potential threats to DOI resources and information assets; evaluate and track DOI employees on foreign travel; evaluate and track foreign visitors as part of the Foreign Visitors Program; review and evaluate individuals and companies desiring to conduct business with DOI; evaluate and track supply chain risks; track referrals of potential insider threats to internal and external partners; and provide statistical reports and meet other insider threat reporting requirements.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

The categories of individuals covered in the system include current and former DOI employees, potential employees, and contractors; other officials or employees of Federal, state, tribal, territorial, and local law enforcement organizations; complainants, informants, suspects and witnesses; covered individuals who have been granted access to controlled unclassified information or classified information, or who hold a sensitive position; persons requesting or having access to DOI facilities, information systems, programs, and infrastructure; members of the general public, including individuals and/or groups of individuals who report or are involved with counterintelligence or insider threat matters, complaints or incidents involving classified information or systems, or controlled unclassified information; individuals being investigated as potential insider threats; individuals desiring to conduct business with DOI; individuals involved in contracts, bids, or proposals related to procurement or acquisition activities; individuals identified as the result of an administrative, security or investigative function who could pose a threat to DOI operations, data, personnel, facilities and systems; family members, dependents, relatives, and individuals

with a personal association to an individual who is the subject of an insider threat investigation; and foreign visitors or foreign contacts that become involved in potential counterintelligence or insider threat matters.

This system maintains records on U.S. citizens, non-U.S. citizens and foreign nationals; however, the Privacy Act only applies to individuals who are U.S. citizens or aliens lawfully admitted for permanent residence.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

This system maintains records related to counterintelligence activities and referrals or investigations of potential insider threats. Records include incident reports; criminal, civil or administrative investigative records; background investigations; personnel security records; facility access records; network security and communications records; information systems security logs; analyses and reports; security violations, and inquiries and recommended remedial actions related to suspected security violations; official and foreign travel records; foreign visitor records; records of contacts with foreign persons; financial disclosure reports; financial records; personnel records; medical records; criminal history records; drug test results; training records; information on complainants, informants, suspects, and witnesses; information from Standard Form (SF) 85 and SF 86 questionnaires; Closed Circuit Television (CCTV) recordings; polygraph examination records; document control registries; courier authorization requests; derivative classification unique identifiers; requests for access to sensitive compartmented information (SCI); briefing/debriefing statements for special programs, sensitive positions, and related information required in connection to personnel security clearance determinations; results of preliminary screening reviews; exhibits, evidence, statements, and affidavits; permits or leases related to DOI infrastructure or managed resources; bids, contracts, procurements or acquisition activities related to individuals and organizations desiring to conduct business with DOI; and other records involving potential insider threats or activities directed against DOI and its personnel, facilities, systems or resources.

These records may contain: Name, Social Security number, date of birth, place of birth, citizenship, security clearance, home address, work address, personal or official phone number, personal or official email address, other

contact information, drivers license number, vehicle identification number, license plate number, ethnicity and race, tribal identification number or other tribal enrollment data, work history, educational history, affiliations, information on family members, dependents, relatives and other personal associations, passport number, gender, fingerprint, hair and eye color, photographic image, video recording, voiceprint, biometric data, any other physical or distinguishing attributes of an individual, and publicly available social media account information.

Investigation records and incident reports may include additional information such as photos, video, sketches, medical reports, and network use records, identification badge data, facility and access control records, email and text messages. Records may also include information concerning potential counterintelligence or insider threat activity, counterintelligence complaints, investigative referrals, results of incident investigations, case number, forms, nondisclosure agreements, consent forms, documents, reports, investigative or analytical efforts of DOI Insider Threat Program personnel, intelligence reports and database query results relating to individuals covered by this system; information obtained from other Federal agencies, organizations, or sources about individuals known or reasonably suspected of being engaged in conduct constituting, preparing for, aiding, or relating to an insider threat, including but not limited to espionage or unauthorized disclosures of controlled unclassified information and classified national security information; and correspondence, documents and reports received, generated or maintained in the course of managing insider threat activities and conducting investigations related to the protection of DOI resources and information assets against potential insider threats.

**RECORD SOURCE CATEGORIES:**

Sources of information in the system include Department, bureau, office and program officials, employees, contractors, and other individuals who are associated with or represent the DOI; officials from other Federal, Tribal, State, territorial, and local government organizations; other Federal agencies, organizations, or sources providing information about individuals known or reasonably suspected of being engaged in conduct constituting, preparing for, aiding, or relating to an insider threat, including but not limited to espionage or unauthorized disclosures of classified national security information or

controlled unclassified information; relevant DOI records, databases and files, including personnel security files, facility access records, security incidents or violation files, network security records, investigatory records, visitor records, travel records, foreign visitor or contact reports, and financial disclosure reports; and complainants, informants, suspects, and witnesses.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DOI as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the U.S. Department of Justice (DOJ), including Offices of the U.S. Attorneys, or other Federal agency conducting litigation or in proceedings before any court, adjudicative, or administrative body, when it is relevant or necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

- (1) DOI or any component of DOI;
- (2) Any other Federal agency appearing before the Office of Hearings and Appeals;
- (3) Any DOI employee or former employee acting in his or her official capacity;
- (4) Any DOI employee or former employee acting in his or her individual capacity when DOI or DOJ has agreed to represent that employee or pay for private representation of the employee; or
- (5) The U.S. Government or any agency thereof, when DOJ determines that DOI is likely to be affected by the proceeding.

B. To a congressional office in response to a written inquiry that an individual covered by the system has made to the office, to the extent the records have not been exempted from disclosure pursuant to 5 U.S.C. 552a(j) and (k).

C. To the Executive Office of the President in response to an inquiry from that office made at the request of the subject of a record or a third party on that person's behalf, or for a purpose compatible with the reason for which the records are collected or maintained, to the extent the records have not been exempted from disclosure pursuant to 5 U.S.C. 552a(j) and (k).

D. To any criminal, civil, or regulatory law enforcement authority (whether Federal, state, territorial, local, tribal or foreign) when a record, either alone or

in conjunction with other information, indicates a violation or potential violation of law—criminal, civil, or regulatory in nature, and the disclosure is compatible with the purpose for which the records were compiled.

E. To an official of another Federal agency to provide information needed in the performance of official duties related to reconciling or reconstructing data files or to enable that agency to respond to an inquiry by the individual to whom the record pertains.

F. To Federal, state, territorial, local, tribal, or foreign agencies that have requested information relevant or necessary to the hiring, firing or retention of an employee or contractor, or the issuance of a security clearance, license, contract, grant or other benefit, when the disclosure is compatible with the purpose for which the records were compiled.

G. To representatives of the National Archives and Records Administration (NARA) to conduct records management inspections under the authority of 44 U.S.C. 2904 and 2906.

H. To state, territorial and local governments and tribal organizations to provide information needed in response to court order and/or discovery purposes related to litigation, when the disclosure is compatible with the purpose for which the records were compiled.

I. To an expert, consultant, grantee, or contractor (including employees of the contractor) of DOI that performs services requiring access to these records on DOI's behalf to carry out the purposes of the system.

J. To appropriate agencies, entities, and persons when:

(1) DOI suspects or has confirmed that there has been a breach of the system of records;

(2) DOI has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, DOI (including its information systems, programs, and operations), the Federal government, or national security; and

(3) the disclosure made to such agencies, entities and persons is reasonably necessary to assist in connection with DOI's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

K. To another Federal agency or Federal entity, when DOI determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in:

(1) responding to a suspected or confirmed breach; or

(2) preventing, minimizing, or remedying the risk of harm to



individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

L. To the Office of Management and Budget (OMB) during the coordination and clearance process in connection with legislative affairs as mandated by OMB Circular A-19.

M. To the Department of the Treasury to recover debts owed to the United States.

N. To the news media and the public, with the approval of the Public Affairs Officer in consultation with counsel and the Senior Agency Official for Privacy, where there exists a legitimate public interest in the disclosure of the information, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

O. To the Department of Justice, the Federal Bureau of Investigation, the Department of Homeland Security, the Office of the Director of National Intelligence, and other Federal, State, territorial and local law enforcement agencies for the purpose of referring potential counterintelligence or insider threats and information exchange on counterintelligence and or insider threat activity.

P. To agency contractors, grantees, or volunteers for DOI or other Federal Departments who have been engaged to assist the Government in the performance of a contract, grant, cooperative agreement, or other activity related to this system of records and who need to have access to the records in order to perform the activity.

Q. To any criminal, civil, or regulatory authority (whether Federal, State, territorial, local, or tribal) for the purpose of providing background search information on individuals for legally authorized purposes, including but not limited to background checks on individuals residing in a home with a minor or individuals seeking employment opportunities requiring background checks.

R. To third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation, provided disclosure is appropriate to the proper performance of the official duties of the individual making the disclosure.

S. To a public or professional licensing organization for the purpose of verifying information, or when information indicates, either by itself or in combination with other information,

a violation or potential violation of professional standards, or reflects on the moral, educational, or professional qualifications of an individual who is licensed or who is seeking to become licensed.

T. To any Federal, State, local, tribal, territorial, foreign, or multinational government or agency, or appropriate private sector individuals and organizations lawfully engaged in intelligence or counterintelligence activities, national security, homeland defense, counterterrorism, or law enforcement intelligence for that entity's official responsibilities, including responsibilities to counter, deter, prevent, prepare for, respond to, threats to national or homeland security, including an act of terrorism or espionage.

U. To any individual, organization, or entity, as appropriate, to notify them of a serious threat to homeland security for the purpose of guarding them against or responding to such a threat, or when there is a reason to believe that the recipient is or could become the target of a particular threat, to the extent the information is relevant to the protection of life, health, or property.

V. To members of the House Committee on Oversight and Government Reform and the Senate Homeland Security and Governmental Affairs Committee pursuant to a written request under 5 U.S.C. 2954, or other committee with oversight of matters within their jurisdiction pertaining to Insider Threat Program activities, after consultation with the Senior Agency Official for Privacy and legal counsel.

W. To a Federal agency or entity that has information relevant to an allegation or investigation regarding an insider threat for purposes of obtaining guidance, additional information, or advice from such federal agency or entity regarding the handling of a counterintelligence or insider threat matter, or to a federal agency or entity that was consulted during the processing of the allegation or investigation but that did not ultimately have relevant information.

X. To a former DOI employee, DOI contractor, or individual sponsored by DOI for a security clearance for purposes of responding to an official inquiry by Federal, State, local, tribal, or territorial government agencies or professional licensing authorities; or facilitating communications with a former employee that may be relevant and necessary for personnel-related or other official purposes when DOI requires information or consultation assistance from the former employee

regarding a matter within that person's former area of responsibility.

Y. To an agency or organization for the purpose of performing audits or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

Z. To an individual's prospective or current employer to the extent necessary to determine employment eligibility.

**POLICIES AND PRACTICES FOR STORAGE OF RECORDS:**

Electronic records are maintained in information systems, or stored on magnetic disc, tape or digital media. Paper records are maintained in file cabinets in a secure facility behind a locked door.

**POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:**

Records may be retrieved by name, Social Security number, date of birth, phone number, and other types of information by keyword search.

**POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:**

A records retention schedule for the Insider Threat Program has been developed and submitted to NARA for approval. Pending approval by NARA, these records will be treated as permanent. The proposed records disposition is temporary. Records in the Insider Threat Program system of records related to a particular insider threat will be maintained for twenty-five years from the date when the insider threat was discovered. Records related to cases that are not insider threats will be destroyed three years after notifications of death, or five years after (1) the individual no longer has an active security clearance held by DOI, (2) separation or transfer of employment, or (3) the individual's contract relationship with DOI expires; whichever is applicable. Approved disposition methods include shredding or pulping paper records, and degaussing or erasing electronic records in accordance with 384 Department Manual 1 and NARA guidelines.

**ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

The records contained in this system are safeguarded in accordance with 43 CFR 2.226 and other applicable security and privacy rules and policies. During normal hours of operation, paper records are maintained in locked file cabinets under the control of authorized personnel. Computerized records systems follow the National Institute of Standards and Technology privacy and security standards as developed to

comply with the Privacy Act of 1974 (Pub. L. 93-579), Paperwork Reduction Act of 1995 (Pub. L. 104-13), Federal Information Security Modernization Act of 2014 (Pub. L. 113-283), and the Federal Information Processing Standards 199, Standards for Security Categorization of Federal Information and Information Systems. Computer servers in which electronic records are stored are located in secured Department of the Interior facilities with physical, technical and administrative levels of security to prevent unauthorized access to the DOI network and information assets. Security controls include encryption, firewalls, audit logs, and network system security monitoring.

Electronic data is protected through user identification, passwords, database permissions and software controls. Access to records in the system is limited to authorized personnel who have a need to access the records in the performance of their official duties, and each user's access is restricted to only the functions and data necessary to perform that person's job responsibilities. System administrators and authorized users are trained and required to follow established internal security protocols and must complete all security, privacy, and records management training and sign the DOI Rules of Behavior.

#### RECORD ACCESS PROCEDURES:

The Department of the Interior has exempted portions of this system from the access procedures of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2), (k)(1), (k)(2) and (k)(5). An individual requesting records on himself or herself should send a signed, written inquiry to the System Manager identified above. The request envelope and letter should both be clearly marked "PRIVACY ACT REQUEST FOR ACCESS." A request for access must meet the requirements of 43 CFR 2.238.

#### CONTESTING RECORD PROCEDURES:

The Department of the Interior has exempted portions of this system from the amendment procedures of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2), (k)(1), (k)(2) and (k)(5). An individual requesting correction or the removal of material from his or her records should send a signed, written request to the System Manager identified above. A request for corrections or removal must meet the requirements of 43 CFR 2.246.

#### NOTIFICATION PROCEDURES:

The Department of the Interior has exempted portions of this system from

the notification procedures of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2), (k)(1), (k)(2) and (k)(5). An individual requesting notification of the existence of records on himself or herself should send a signed, written inquiry to the System Manager identified above. The request envelope and letter should both be clearly marked "PRIVACY ACT INQUIRY." A request for notification must meet the requirements of 43 CFR 2.235.

#### EXEMPTIONS PROMULGATED FOR THE SYSTEM:

This system contains classified and unclassified intelligence and law enforcement investigatory records related to insider threat and counterintelligence activities that are exempt from certain provisions of the Privacy Act, 5 U.S.C. 552a(j) and (k). Pursuant to 5 U.S.C. 552a(j)(2), (k)(1), (k)(2) and (k)(5), the Department of the Interior has exempted portions of this system from the Privacy Act subsections (c)(3), (c)(4), (d), (e)(1) through (e)(3), (e)(4)(G) through (e)(4)(L), (e)(5), (e)(8), (e)(12), (f), and (g). In accordance with 5 U.S.C. 553(b), (c) and (e), the Department of the Interior has promulgated rules at 43 CFR part 2, subpart K, and is proposing to amend these rules in a Notice of Proposed Rulemaking published separately in the **Federal Register**.

#### HISTORY:

79 FR 52033 (September 2, 2014).

#### Teri Barnett,

*Departmental Privacy Officer, Department of the Interior.*

[FR Doc. 2021-18710 Filed 8-30-21; 8:45 am]

**BILLING CODE 4334-63-P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[LLNVS01000 L5105.0000.EA0000  
LVRCF0200740 241A 20X MO#4500154369]

### Notice of Temporary Closure of Public Lands for the 2021 Rise Lantern Festival in Clark County, Nevada

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Temporary closure on public lands in Nevada.

**SUMMARY:** The Las Vegas Field Office announces the temporary closure of certain public lands under its administration in Clark County, Nevada. This temporary closure is being made in the interest of public safety in relation to the authorized 2021 Rise Lantern Festival. This closure controls access to multiple points of entry to the festival

located on the Jean Dry Lake Bed in order to minimize the risk of vehicle collisions with festival participants and workers. The temporary closure also ensures adequate time to conduct clean-up of the festival location.

**DATES:** The temporary closure will go into effect at 12:01 a.m. on October 1, 2021, and will remain in effect until 11:59 p.m. on October 2, 2021.

**ADDRESSES:** The closure order and map of the closure area will be posted at the Bureau of Land Management (BLM) Las Vegas Field Office, 4701 North Torrey Pines Drive, Las Vegas, Nevada 89130, and on the BLM website: [www.blm.gov](http://www.blm.gov). These materials will also be posted at the access point of Jean Dry Lake Bed and the surrounding areas.

#### FOR FURTHER INFORMATION CONTACT:

Jenna Giddens, Outdoor Recreation Planner, 702-515-5156, [jgiddens@blm.gov](mailto:jgiddens@blm.gov). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1-800-877-8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** The Las Vegas Field Office announces the temporary closure of selected public lands under its administration. This action is being taken to help ensure public safety and prevent unnecessary environmental degradation during the official permitted running of the 2021 Rise Lantern Festival. The public lands affected by this closure are described as follows:

#### Mount Diablo Meridian, Nevada

T. 24 S., R. 60 E.,

secs. 20 and 21, those portions lying easterly and southerly of the easterly and southerly right-of-way boundary of State Route 604; sec. 22; secs. 27 and 28; secs. 29 and 32, those portions lying easterly and southerly of the easterly and southerly right-of-way boundary of State Route 604; secs. 33 and 34.

T. 25 S., R. 60 E.,

sec. 2, W1/2; secs. 3 thru 5; secs. 8 thru 10; sec. 11, W1/2; sec. 14, W1/2; secs. 15 thru 17.

The area described contains approximately 11,200 acres.

Notices will be posted along roads leading into the public lands subject to the closure. The closure area includes the Jean Dry Lake Bed and is bordered by Hidden Valley to the east, Sheep Mountain to the southwest, and the right-of-way boundary of State Route 604. Under the authority of Section 303(a) of the Federal Lands Policy and

Management Act of 1976 (43 U.S.C. 1733(a)), 43 CFR 8360.0–7 and 43 CFR 8364.1, the BLM will enforce the following rules in the area described above:

The entire area as listed in the legal description above is closed to all vehicles and personnel except law enforcement, emergency vehicles, event personnel, and ticketed festival participants. No vehicle stopping or parking in the closed area except for designated parking areas will be permitted. Festival participants are required to remain within designated spectator areas only.

The following restrictions will be in effect for the duration of the closure. Unless otherwise authorized, the following activities within the closure area are prohibited:

- Camping.
- Possession and/or consuming any alcoholic beverage unless the person has reached the age of 21 years.
- Discharging, or use of firearms or other weapons.
- Possession and/or discharging of fireworks.
- Allowing any pet or other animal in one's care to be unrestrained at any time. Animals must be on a leash or other restraint no longer than 3 feet.
- Operation of any vehicle including any off-highway vehicle and golf carts within the closure area, except along designated event routes to and from entrance/exit points and parking areas; or designated event vehicles and official vehicles.
- Parking any vehicle in violation of posted restrictions, or in such a manner as to obstruct or impede normal or emergency traffic movement or the parking of other vehicles, create a safety hazard, or endanger any person, property, or feature. Vehicles so parked are subject to citation, removal, and impoundment at the owner's expense.
- Operating a vehicle through, around, or beyond a restrictive sign, recognizable barricade, fence, or traffic control barrier or device.

Signs and maps directing the public to designated spectator areas will be provided by the event sponsor.

*Exceptions:* Closure restrictions do not apply to BLM employees, contractors, or agents engaged in official duties, any Federal, State, or local officer, member of an organized rescue or firefighting force engaged in fire, emergency, or law enforcement activities, public utility employees engaged in emergency repairs, or vehicles owned by or contracted by the United States, the State of Nevada, or Clark County. The closure restrictions also do not apply to vehicles under

permit for operation by event staff, contractors, and festival participants.

*Enforcement:* Any person who violates this temporary closure may be tried before a United States Magistrate and fined in accordance with 18 U.S.C. 3571, imprisoned no more than 12 months under 43 U.S.C. 1733(a) and 43 CFR 8360.0–7, or both. In accordance with 43 CFR 8365.1–7, State or local officials may also impose penalties for violations of Nevada law.

(Authority: 43 CFR 8360.0–7 and 8364.1)

**Shonna Dooman,**

*Field Manager—Las Vegas Field Office.*

[FR Doc. 2021–18663 Filed 8–30–21; 8:45 am]

**BILLING CODE 4310–HC–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[LLHQ310000.L13100000.PP0000.21X]

#### Notice Regarding Use of Truck-Mounted Coriolis Meters

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of clarification.

**SUMMARY:** This notice clarifies the Bureau of Land Management's (BLM) position on the use of truck-mounted Coriolis (TMC) meters under the BLM's oil measurement regulations published on November 17, 2016.

**DATES:** This interpretation takes effect on August 31, 2021.

**FOR FURTHER INFORMATION CONTACT:**

Amanda Eagle, Production Management Team Lead for Division of Fluid Minerals, Bureau of Land Management, Headquarters Office, 301 Dinosaur Drive, Santa Fe, NM 87508; phone 907–538–2300; email [pmt@blm.gov](mailto:pmt@blm.gov). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact Ms. Eagle. The FRS is available 24 hours a day, 7 days a week, to leave a message or question. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** This notice clarifies the BLM's position on the use of TMC meters under its oil measurement regulations found at 43 CFR subpart 3174. Although the preamble to the final rule establishing the oil measurement regulations indicated that TMC meters were not authorized, such an interpretation is not necessarily consistent with the plain language of the regulations.

Today, the BLM is resolving this inconsistency by adopting an

interpretation of the oil measurement regulations that allows for the use of TMC meters if such use is conducted in accordance with the requirements for a Coriolis measurement system (CMS).

This clarification of the BLM's oil measurement regulations will maintain the efficacy of the regulations in ensuring measurement accuracy and a fair return to the American public.

*Background:* Measurement of oil by TMC meters involves connecting a flexible hose from a truck to the sales valve on an oil storage tank. The seal on the sales valve is then broken, allowing oil to flow from the tank to the truck. As the oil enters the truck, it is measured by a Coriolis meter. When the oil transfer is complete, the sales valve at the tank is sealed and the hose is walked-back to the truck, which forces the last of the oil through the meter.

Oil measurement from Federal and Indian mineral leases was governed by BLM's Onshore Order No. 4 (54 FR 8086 (Feb. 24, 1989)) from 1989 to January 2017. TMC meters were not an authorized method of measurement under Onshore Order No. 4. However, at least one BLM Field Office (North Dakota) issued variances to allow for the use of TMC meters beginning in July 2004. A November 2008 BLM Instruction Memorandum (IM) explained that, although “the use of truck mounted meters for measuring oil from tanks in lieu of tank gauging is a Best Management Practice (BMP) for oil measurement,” TMC meters “must be proven to be at least as accurate as the standards set in (Onshore Order 4)” before an exception from Onshore Order No. 4 can be issued.<sup>1</sup>

Prompted by external and internal oversight reviews finding many of the BLM's production measurement and accountability policies to be outdated and inconsistently applied, the BLM promulgated new site security, oil measurement, and gas measurement regulations in November 2016. The new oil measurement regulations were codified as subpart 3174 of a new part 3170 in Title 43 of the Code of Federal Regulations (81 FR 81462 (Nov. 17, 2016)).

Under subpart 3174, three methods of oil measurement are authorized: Measurement by tank gauging,<sup>2</sup> measurement by a lease automatic custody transfer (LACT) system,<sup>3</sup> and measurement by a CMS.<sup>4</sup> Section 3174.4

<sup>1</sup> IM 2009–027, “The Feasibility Use of Truck Mounted Meters for Oil Measurement Onshore” (Nov. 26, 2008).

<sup>2</sup> 43 CFR 3174.5, 3174.6.

<sup>3</sup> 43 CFR 3174.7, 3174.8.

<sup>4</sup> 43 CFR 3174.9, 3174.10.

sets forth specific measurement performance requirements with respect to uncertainty, bias, and verifiability that apply to all measurement methods under subpart 3174. Additional requirements specific to measurement by a CMS are detailed in §§ 3174.9 and 3174.10.

Subpart 3174 defines a “Coriolis measurement system (CMS)” as “a metering system using a Coriolis meter in conjunction with a tertiary device, pressure transducer, and temperature transducer in order to derive and report gross standard oil volume. A CMS system provides real-time, on-line measurement of oil.”<sup>5</sup>

Section 3174.9 sets forth a number of “general requirements” for a CMS: The CMS must meet the performance requirements of § 3174.4; the specific make, model, and size of the Coriolis meter and associated software must have been reviewed and approved by the BLM’s Production Measurement Team (PMT); the CMS must be “proven” in accordance with § 3174.11; measurement tickets must be completed under § 3174.12(b); the CMS must be composed of specific components meeting specified requirements; API oil gravity must be reported using a specified method; and, net standard volume must be calculated in accordance with certain API guidelines. Section 3174.10 contains CMS operating requirements pertaining to minimum electronic pulse levels, meter specifications, totalizers, meter zero value verification, required on-site information, audit trails, and data protection.

The subpart 3174 regulations do not specifically address the use of TMC meters. However, the preamble to the final rule did address TMC meters as follows:

One commenter said the final rule should allow operators to use truck-mounted CMS and submitted summarized data to support their view. The summarized data indicates significant differences between manual-gauged volumes and truck-mounted Coriolis-metered volumes. A summary of these volume differences indicated that the truck-mounted Coriolis meter measured as much as 22.44 bbl less than [sic] the manual gauge measured. Missing from the data is the volume of the entire load. The BLM needs this information to understand how significant these variations are. The data also indicates significant differences in measured oil temperature (as much as 23 °F) and gravity (as much as 5 degrees) when compared to manual methods. The commenter did not explain these differences or explain or justify the data submitted. The

BLM decided not to include the use of truck-mounted Coriolis metering in the final rule. Operators may seek approval to use the truck-mounted option through the PMT approval process, which is outlined in § 3174.13. The rule was not changed based on this comment.

81 FR 81485.

Thus, in the preamble, the BLM expressed an intent not to authorize the use of TMC meters as a CMS, and implicitly categorized TMC meters as a “method of oil measurement other than tank gauging, LACT system, or CMS” that requires prior BLM approval.<sup>6</sup>

#### Discussion

The BLM is revising the position it took regarding TMC meters, as described in the final rule preamble language described earlier, because it believes that the text of subpart 3174 supports an interpretation that allows for the use of TMC meters. Because TMC meters involve the use of “a Coriolis meter in conjunction with a tertiary device, pressure transducer, and temperature transducer in order to derive and report gross standard volume of oil,” and “provides real-time, on-line measurement of oil,” they meet the definition of a CMS in § 3174.1. And, TMC meters can comply with subpart 3174’s requirements for a CMS. In particular, TMC meters are capable of meeting the specific performance requirements for uncertainty, bias, and verifiability set forth in § 3174.4 (as required by § 3174.9(a)). The BLM also believes that TMC meters are capable of complying with § 3179.9, which prescribes “general requirements and components” for a CMS, and § 3179.10, which sets forth the “operating requirements” for a CMS. Therefore, after considering TMC meters in light of the plain text of subpart 3174, the BLM has concluded that TMC meters are a type of a CMS and thus are an acceptable method of oil measurement as long as the TMC meters meet the requirements of subpart 3174.

The BLM acknowledges that the preamble to the 3174 regulations stated that the BLM was not including TMC meters in the final rule and that operators could seek BLM approval of TMC meters through the PMT approval process. The BLM no longer agrees with that interpretation of subpart 3174. In the first instance, while the preamble to a rule may be used to inform the proper interpretation of ambiguous regulation text, it cannot override the regulation’s plain meaning. *See Wyoming Outdoor*

*Council v. U.S. Forest Service*, 165 F.3d 43, 53 (D.C. Cir. 1999) (noting that “[l]anguage in the preamble of a regulation is not controlling over the language of the regulation itself”); *BHP Minerals International, Inc. et al*, 139 IBLA 269, 310 (1997) (“Where there is a conflict between ‘intent’ as expressed in a preamble and as ultimately explicated in the actual language of the regulation, it is the language of the regulation which is determinative.”). As explained earlier, the plain text of subpart 3174 indicates that TMC meters are a type of a CMS, and the text of the regulation should control. In addition, the BLM has reconsidered the rationale underlying the interpretation espoused in the preamble. The view of TMC meters expressed in that preamble passage appears to be inconsistent with the view expressed by the BLM in the 2008 IM stating that “the use of truck mounted meters for measuring oil from tanks in lieu of tank gauging is a Best Management Practice (BMP) for oil measurement.” With respect to the measurement data analyzed, the preamble passage does not address the possibility that the difference in results might be attributable to TMC meters’ measuring capacity being more accurate than manual tank gauging. It would seem incongruous to conclude that measurement by a truck-mounted Coriolis meter would be unacceptably inaccurate where the BLM would accept measurement by the same Coriolis meter in a stationary CMS. For the foregoing reasons, the BLM is now clarifying that it interprets subpart 3174 as allowing for the use of TMC meters, as long as such use is conducted in accordance with the subpart 3174 requirements for a CMS.

(Authority: 30 U.S.C. 189; 30 U.S.C. 1751(a), 43 CFR 3170.1)

**Rebecca Good,**

*Acting Chief, Division of Fluid Minerals.*

[FR Doc. 2021–18750 Filed 8–30–21; 8:45 am]

**BILLING CODE 4310–84–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[21X.LLAZ921000.L1440000.BJ0000.  
LXSSA2250000.241A]

### Notice of Filing of Plats of Survey; Arizona

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of official filing.

**SUMMARY:** The plats of survey of the following described lands are scheduled to be officially filed 30 days after the

<sup>5</sup> 43 CFR 3174.1(a). “Tertiary device” means, “for a CMS, the flow computer and associated memory, calculation, and display functions.” *Id.*

<sup>6</sup> Subpart 3174 allows for a “method of oil measurement other than tank gauging, LACT system, or CMS” to be used where it has been approved by the BLM. 43 CFR 3174.13.

date of this publication in the Bureau of Land Management (BLM), Arizona State Office, Phoenix, Arizona. The surveys announced in this notice are necessary for the management of lands administered by the agency indicated.

**ADDRESSES:** These plats will be available for inspection in the Arizona State Office, Bureau of Land Management, One North Central Avenue, Suite 800, Phoenix, Arizona, 85004-4427. Protests of any of these surveys should be sent to the Arizona State Director at this address.

**FOR FURTHER INFORMATION CONTACT:** Mark D. Morberg, Chief Cadastral Surveyor of Arizona; (602) 417-9558; [mmorberg@blm.gov](mailto:mmorberg@blm.gov). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1-800-877-8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:**

**The Gila and Salt River Meridian, Arizona**

The plat, in one sheet, representing a metes-and-bounds survey in section 6, Township 20 North, Range 7 East, accepted July 22, 2021, for Group 1204, Arizona. This plat was prepared at the request of the United States Air Force.

The plat, in three sheets, representing the dependent resurvey of portions of the south, and east boundaries and a portion of the subdivisional lines, the subdivision of sections 33 and 34, the survey of the boundary of the Glen Canyon National Recreation Area, the establishment of the dividing line which crosses the Colorado river between the Grand Canyon National Park and Glen Canyon National Recreation Area and the Metes-and-bounds survey of a portion of the right-of-way of U. S. Highway No. 89A, Township 40 North, Range 7 East, accepted August 17, 2021, for Group 1205, Arizona. This plat was prepared at the request of Glen Canyon National Recreation Area.

The plat, two sheets, representing the dependent resurvey of a portion of the subdivisional lines, the subdivision of section 11, and the photogrammetric survey of a portion of the Colorado River left bank meanders along the Glen Canyon National Recreation Area boundary, partially surveyed Township 40 North, Range 8 East, accepted August 17, 2021, for Group 1205, Arizona. This plat was prepared at the request of Glen Canyon National Recreation Area.

The plat, in one sheet, representing the dependent resurvey of a portion of the south and west boundaries and a portion of the subdivisional lines, the subdivision of section 31, and a metes-and-bounds survey in section 7, Township 18 North, Range 24 East, accepted August 17, 2021, for Group 1211, Arizona. This plat was prepared at the request of the Petrified National Park.

The plat, in one sheet, representing the dependent resurvey of a portion of the subdivisional lines and the subdivision of section 7, Township 4 North, Range 2 West, accepted April 14, 2021, for Group 1199, Arizona. This plat was prepared at the request of United States Air Force.

The plat, in one sheet, representing the dependent resurvey of a portion of the north boundary of Township 12 North, Range 2 West, a portion of the subdivisional lines and the boundary of Mineral Survey Nos. 1690, 1691, 2348 and 2420, Township 12 North, Range 2 West, accepted August 17, 2021, for Group 1206, Arizona. This plat was prepared at the request of the United States Forest Service.

The plat, in two sheets, represents the dependent resurvey of a portion of the First Standard Parallel North, a portion of the east boundary, and a portion of the subdivisional lines, the subdivision of sections 1, 2 and 12, and a metes-and-bounds survey in section 2, Township 4 North, Range 3 West, accepted April 14, 2021, for Group 1199, Arizona. This plat was prepared at the request of the United States Air Force.

The plat, in one sheet, representing the dependent resurvey of a portion of the west boundary, and portions of the subdivisional lines, and the subdivision of sections 18, 19 and 30, Township 6 South, Range 4 West, accepted April 14, 2021, for Group 1210, Arizona. This plat was prepared at the request of the United States Air Force.

The plat, in two sheets, representing the dependent resurvey of a portion of the subdivisional lines, the subdivision of certain sections and the metes-and-bounds survey of the administrative boundary of Gila Bend Air Force Auxiliary Field, Township 6 South, Range 5 West, accepted April 14, 2021, for Group 1210, Arizona. This plat was prepared at the request of United States Air Force.

The plat, in one sheet, representing the dependent resurvey of a portion of the Marine Corps Air Station Yuma Martinez Lake Recreation Area boundary from Angle Point 12 to Angle Point 13, fractional Township 5 South, Range 22 West, accepted July 22, 2021, for Group 1175, Arizona. This plat was

prepared at the request of the United States Marine Corps.

The plat, in one sheet, representing the dependent resurvey of a portion of the east boundary and portions of the subdivisional lines, the subdivision of sections 23 and 24 and metes-and-bounds surveys, Township 6 South, Range 19 East, accepted August 17, 2021, for Group 1208, Arizona. This plat was prepared at the request of the Bureau of Land Management.

The plat, in one sheet, representing the dependent resurvey of a portion of the west boundary and a portion of the subdivisional lines, and the subdivision of section 30, Township 6 South, Range 26 East, accepted August 17, 2021, for Group 1215, Arizona. This plat was prepared at the request of the Bureau of Land Management.

A person or party who wishes to protest against any of these surveys must file a written notice of protest within 30 calendar days from the date of this publication with the Arizona State Director, Bureau of Land Management, stating that they wish to protest.

A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within 30 days after the protest is filed. Before including your address, or other personal information in your protest, please be aware that your entire protest, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

(Authority: 43 U.S.C. Chap. 3.)

**Mark Morberg,**

*Chief Cadastral Surveyor of Arizona.*

[FR Doc. 2021-18667 Filed 8-30-21; 8:45 am]

**BILLING CODE 4310-32-P**

**DEPARTMENT OF THE INTERIOR**

**Bureau of Land Management**

[21X.LLAZ921000.L1440000.BJ0000.LXSSA2250000.241A]

**Notice of Filing of Plats of Survey; Arizona**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of official filing.

**SUMMARY:** The plats of survey of the following described lands are scheduled to be officially filed 30 days after the

date of this publication in the Bureau of Land Management (BLM), Arizona State Office, Phoenix, Arizona. The surveys announced in this notice are necessary for the management of lands administered by the agency indicated.

**ADDRESSES:** These plats will be available for inspection in the Arizona State Office, Bureau of Land Management, One North Central Avenue, Suite 800, Phoenix, Arizona 85004-4427. Protests of any of these surveys should be sent to the Arizona State Director at this address.

**FOR FURTHER INFORMATION CONTACT:** Mark D. Morberg, Chief Cadastral Surveyor of Arizona; (602) 417-9558; [mmorberg@blm.gov](mailto:mmorberg@blm.gov). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1-800-877-8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:**

**The Gila and Salt River Meridian, Arizona**

The plat, in one sheet, representing a metes-and-bounds survey in section 6, Township 20 North, Range 7 East, accepted July 22, 2021, for Group 1204, Arizona. This plat was prepared at the request of the United States Air Force.

The plat, in three sheets, representing the dependent resurvey of portions of the south, and east boundaries and a portion of the subdivisional lines, the subdivision of sections 33 and 34, the survey of the boundary of the Glen Canyon National Recreation Area, the establishment of the dividing line which crosses the Colorado river between the Grand Canyon National Park and Glen Canyon National Recreation Area and the Metes-and-bounds survey of a portion of the right-of-way of U.S. Highway No. 89A, Township 40 North, Range 7 East, accepted August 17, 2021, for Group 1205, Arizona. This plat was prepared at the request of Glen Canyon National Recreation Area.

The plat, two sheets, representing the dependent resurvey of a portion of the subdivisional lines, the subdivision of section 11, and the photogrammetric survey of a portion of the Colorado River left bank meanders along the Glen Canyon National Recreation Area boundary, partially surveyed Township 40 North, Range 8 East, accepted August 17, 2021, for Group 1205, Arizona. This plat was prepared at the request of Glen Canyon National Recreation Area.

The plat, in one sheet, representing the dependent resurvey of a portion of the south and west boundaries and a portion of the subdivisional lines, the subdivision of section 31, and a metes-and-bounds survey in section 7, Township 18 North, Range 24 East, accepted August 17, 2021, for Group 1211, Arizona. This plat was prepared at the request of the Petrified National Park.

The plat, in one sheet, representing the dependent resurvey of a portion of the subdivisional lines and the subdivision of section 7, Township 4 North, Range 2 West, accepted April 14, 2021, for Group 1199, Arizona. This plat was prepared at the request of United States Air Force.

The plat, in one sheet, representing the dependent resurvey of a portion of the north boundary of Township 12 North, Range 2 West, a portion of the subdivisional lines and the boundary of Mineral Survey Nos. 1690, 1691, 2348 and 2420, Township 12 North, Range 2 West, accepted August 17, 2021, for Group 1206, Arizona. This plat was prepared at the request of the United States Forest Service.

The plat, in two sheets, represents the dependent resurvey of a portion of the First Standard Parallel North, a portion of the east boundary, and a portion of the subdivisional lines, the subdivision of sections 1, 2 and 12, and a metes-and-bounds survey in section 2, Township 4 North, Range 3 West, accepted April 14, 2021, for Group 1199, Arizona. This plat was prepared at the request of the United States Air Force.

The plat, in one sheet, representing the dependent resurvey of a portion of the west boundary, and portions of the subdivisional lines, and the subdivision of sections 18, 19 and 30, Township 6 South, Range 4 West, accepted April 14, 2021, for Group 1210, Arizona. This plat was prepared at the request of the United States Air Force.

The plat, in two sheets, representing the dependent resurvey of a portion of the subdivisional lines, the subdivision of certain sections and the metes-and-bounds survey of the administrative boundary of Gila Bend Air Force Auxiliary Field, Township 6 South, Range 5 West, accepted April 14, 2021, for Group 1210, Arizona. This plat was prepared at the request of United States Air Force.

The plat, in one sheet, representing the dependent resurvey of a portion of the Marine Corps Air Station Yuma Martinez Lake Recreation Area boundary from Angle Point 12 to Angle Point 13, fractional Township 5 South, Range 22 West, accepted July 22, 2021, for Group 1175, Arizona. This plat was

prepared at the request of the United States Marine Corps.

The plat, in one sheet, representing the dependent resurvey of a portion of the east boundary and portions of the subdivisional lines, the subdivision of sections 23 and 24 and metes-and-bounds surveys, Township 6 South, Range 19 East, accepted August 17, 2021, for Group 1208, Arizona. This plat was prepared at the request of the Bureau of Land Management.

The plat, in one sheet, representing the dependent resurvey of a portion of the west boundary and a portion of the subdivisional lines, and the subdivision of section 30, Township 6 South, Range 26 East, accepted August 17, 2021, for Group 1215, Arizona. This plat was prepared at the request of the Bureau of Land Management.

A person or party who wishes to protest against any of these surveys must file a written notice of protest within 30 calendar days from the date of this publication with the Arizona State Director, Bureau of Land Management, stating that they wish to protest.

A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within 30 days after the protest is filed. Before including your address, or other personal information in your protest, please be aware that your entire protest, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

(Authority: 43 U.S.C. Chap. 3.)

**Mark Morberg,**

*Chief Cadastral Surveyor of Arizona.*

[FR Doc. 2021-18681 Filed 8-30-21; 8:45 am]

**BILLING CODE 4310-32-P**

**DEPARTMENT OF THE INTERIOR**

**Bureau of Land Management**

[LLAK940000.L14100000.BX0000.21X.  
LXSS001L0100]

**Plats of Survey: Alaska**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of official filing.

**SUMMARY:** The plats of survey of lands described in this notice are scheduled to be officially filed in the Bureau of Land Management (BLM), Alaska State Office,

Anchorage, Alaska, 30 calendar days from the date of the **Federal Register** notice publication. The surveys, which were executed at the request of the Bureau of Indian Affairs and the BLM, are necessary for the management of these lands.

**DATES:** The BLM must receive protests by September 30, 2021.

**ADDRESSES:** You may buy a copy of the plats from the BLM Alaska Public Information Center, 222 W. 7th Avenue, Mailstop 13, Anchorage, AK 99513. Please use this address when filing written protests. You may also view the plats at the BLM Alaska Public Information Center, Fitzgerald Federal Building, 222 West 7th Avenue, Anchorage, Alaska, at no cost.

**FOR FURTHER INFORMATION CONTACT:** Thomas B. O'Toole, Chief, Branch of Cadastral Survey, Alaska State Office, Bureau of Land Management, 222 West 7th Avenue, Anchorage, AK 99513; 907-271-4231; [totoole@blm.gov](mailto:totoole@blm.gov). People who use a telecommunications device for the deaf may call the Federal Relay Service (FRS) at 1-800-877-8339 to contact the BLM during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** The lands surveyed are:

#### **Copper River Meridian, Alaska**

T. 10 N., R. 1 E., accepted November 5, 2020.  
T. 20 N., R. 11 E., accepted February 2, 2021.  
U.S. Survey No. 13416, accepted January 13, 2021, situated in T. 17 N., R. 12 E.  
U.S. Survey No. 13841, accepted November 9, 2020, situated in T. 16 N., R. 12 E., and T. 16 N., R. 13 E.  
U.S. Survey No. 14503, accepted January 14, 2021, situated in T. 20 N., R. 11 E.

#### **Fairbanks Meridian, Alaska**

T. 4 N., R. 2 W., accepted February 10, 2021.  
T. 5 N., R. 6 W., accepted January 13, 2021.  
T. 7 S., R. 27 E., accepted November 6, 2020.  
T. 3 S., R. 12 W., accepted February 10, 2021.  
U.S. Survey No. 14506, accepted January 15, 2021, situated in T. 13 S., R. 10 E.  
U.S. Survey No. 14507, accepted January 13, 2021, situated in T. 28 S., R. 9 E.  
U.S. Survey No. 14511, accepted January 13, 2021, situated in T. 21 S., R. 7 E.

#### **Seward Meridian, Alaska**

T. 15 N., R. 2 E., Memorandum of correction of survey plat, dated December 4, 2020, corrects the area of section 26.  
T. 20 N., R. 73 W., accepted March 10, 2021.  
T. 6 S., R. 55 W., accepted January 29, 2021.  
T. 17 S., R. 45 W., accepted December 22, 2020.  
U.S. Survey No. 11746, accepted January 27, 2021, situated in T. 16 S., R. 63 W.  
U.S. Survey No. 14465, accepted April 30, 2019, situated in T. 8 S., R. 31 W.

A person or party who wishes to protest one or more plats of survey identified above must file a written notice of protest with the State Director for the BLM in Alaska. The protest may be filed by mailing to BLM State Director, Alaska State Office, Bureau of Land Management, 222 West 7th Avenue, Anchorage, AK 99513 or by delivering it in person to BLM Alaska Public Information Center, Fitzgerald Federal Building, 222 West 7th Avenue, Anchorage, Alaska. The notice of protest must identify the plat(s) of survey that the person or party wishes to protest. You must file the notice of protest before the scheduled date of official filing for the plat(s) of survey being protested. The BLM will not consider any notice of protest filed after the scheduled date of official filing. A notice of protest is considered filed on the date it is received by the State Director for the BLM in Alaska during regular business hours; if received after regular business hours, a notice of protest will be considered filed the next business day. A written statement of reasons in support of a protest, if not filed with the notice of protest, must be filed with the State Director for the BLM in Alaska within 30 calendar days after the notice of protest is filed.

If a notice of protest against a plat of survey is received prior to the scheduled date of official filing, the official filing of the plat of survey identified in the notice of protest will be stayed pending consideration of the protest. A plat of survey will not be officially filed until the dismissal or resolution of all protests of the plat.

Before including your address, phone number, email address, or other personally identifiable information in a notice of protest or statement of reasons, you should be aware that the documents you submit, including your personally identifiable information, may be made publicly available in their entirety at any time. While you can ask the BLM to withhold your personally identifiable information from public review, we cannot guarantee that we will be able to do so.

(Authority: 43 U.S.C. Chap. 3.)

#### **Thomas O'Toole,**

*Chief Cadastral Surveyor, Alaska.*

[FR Doc. 2021-18669 Filed 8-30-21; 8:45 am]

**BILLING CODE 4310-JA-P**

## **DEPARTMENT OF THE INTERIOR**

### **Bureau of Ocean Energy Management**

[Docket No. BOEM-2021-0052]

#### **Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Sunrise Wind Farm Project on the Northeast Atlantic Outer Continental Shelf**

**AGENCY:** Bureau of Ocean Energy Management (BOEM), Interior.

**ACTION:** Notice of intent (NOI) to prepare an environmental impact statement (EIS); request for comments.

**SUMMARY:** Consistent with the regulations implementing the National Environmental Policy Act (NEPA), BOEM announces its intent to prepare an EIS for the review of a construction and operations plan (COP) submitted by Sunrise Wind LLC (Sunrise Wind) for the construction, and operation of a wind energy facility offshore Massachusetts, Rhode Island, and New York with a proposed interconnection location at the existing Holbrook Substation. BOEM seeks public comment for the EIS scoping process as well as comment concerning compliance with section 106 of the National Historic Preservation Act (NHPA) and its implementing regulations. Detailed information about the proposed wind energy facility, including the COP, can be found on BOEM's website at: [www.boem.gov/Sunrise-Wind](http://www.boem.gov/Sunrise-Wind).

**DATES:** Comments are due to BOEM no later than September 30, 2021.

BOEM will hold virtual public scoping meetings for the Sunrise Wind EIS at the following dates and times (eastern daylight time):

- Thursday, September 16, 5:30 p.m.;
  - Monday, September 20, 1:00 p.m.;
- and
- Wednesday, September 22, 5:30 p.m.

Registration for the virtual public meetings may be completed here: <https://www.boem.gov/Sunrise-Wind-Scoping-Virtual-Meetings> or by calling (703) 787-1073.

**ADDRESSES:** Comments can be submitted in any of the following ways:

- In written form, delivered by mail or delivery service, enclosed in an envelope labeled, "SUNRISE WIND COP EIS" and addressed to Program Manager, Office of Renewable Energy, Bureau of Ocean Energy Management, 45600 Woodland Road, Sterling, Virginia 20166; or
- *Through the regulations.gov web portal:* Navigate to <http://>



[www.regulations.gov](http://www.regulations.gov) and search for Docket No. BOEM–2021–0052. Click on the “Comment Now!” button to the right of the document link. Enter your information and comment, then click “Submit.”

**FOR FURTHER INFORMATION CONTACT:**

Michelle Morin, BOEM Office of Renewable Energy Programs, 45600 Woodland Road, Sterling, Virginia 20166, (703) 787–1722 or [michelle.morin@boem.gov](mailto:michelle.morin@boem.gov).

**SUPPLEMENTARY INFORMATION:**

**Purpose of and Need for the Proposed Action**

In Executive Order 14008, President Biden stated that it is the policy of the United States:

to organize and deploy the full capacity of its agencies to combat the climate crisis to implement a Government-wide approach that reduces climate pollution in every sector of the economy; increases resilience to the impacts of climate change; protects public health; conserves our lands, waters, and biodiversity; delivers environmental justice; and spurs well-paying union jobs and economic growth, especially through innovation, commercialization, and deployment of clean energy technologies and infrastructure.

Sunrise Wind has the exclusive right to submit a COP for activities located offshore Massachusetts, Rhode Island, and New York in the area covered by BOEM Renewable Energy Lease OCS–A 0487 (Lease Area). A portion of the area covered by Renewable Energy Lease OCS–A 0500 and the entirety of the area covered by Renewable Energy Lease OCS–A 0487 were merged and included in a revised Lease OCS–A 0487 issued to Sunrise Wind on March 15, 2021. Sunrise Wind has submitted a COP to BOEM proposing the construction and installation, operations and maintenance, and conceptual decommissioning of an offshore wind energy facility in the Lease Area (Project).

Sunrise Wind’s purpose and need is to develop a commercial-scale, offshore wind energy facility in the Lease Area, with up to 122 wind turbine generators, an offshore converter station (OCS–DC), inter-array cables, an onshore converter station (OnCS–DC), an offshore transmission cable making landfall on Long Island, New York, and an onshore interconnection cable to the Long Island Power Authority Holbrook Substation. The Project will generate between 880 megawatts (MW) and 1,300 MW of renewable energy. This Project will help the State of New York achieve the aggressive clean energy goals set forth in the Clean Energy Standards Order and the Climate Leadership and Community

Protection Act through a power purchase agreement (PPA) contract with the New York State Energy Research and Development Authority to deliver 880 MW of offshore wind energy.

Sunrise Wind may modify its PPA contract with NYSERDA to deliver up to 924 MW of offshore wind energy.

Based on the goals of the applicant and BOEM’s authority, the purpose of BOEM’s action is to respond to Sunrise Wind’s COP proposal and determine whether to approve, approve with modifications, or disapprove Sunrise Wind’s COP to construct and install, operate and maintain, and decommission a commercial-scale offshore wind energy facility within the Lease Area (the Proposed Action). BOEM’s action is needed to further the United States’ policy to make Outer Continental Shelf energy resources available for expeditious and orderly development, subject to environmental safeguards (43 U.S.C. 1332(3)), including consideration of natural resources, safety of navigation, and other ocean uses.

In addition, the National Oceanic and Atmospheric Administration (NOAA) National Marine Fisheries Service (NMFS) anticipates receipt of one or more requests for authorization to take marine mammals incidental to activities related to the Project under the Marine Mammal Protection Act (MMPA). NMFS’ issuance of an MMPA incidental take authorization is a major Federal action, and, in relation to BOEM’s action, is considered a connected action (40 CFR 1501.9(e)(1)). The purpose of the NMFS action—which is a direct outcome of Sunrise Wind’s request for authorization to take marine mammals incidental to specified activities associated with the Project (e.g., pile driving)—is to evaluate Sunrise Wind’s request pursuant to specific requirements of the MMPA and its implementing regulations administered by NMFS, considering impacts of Sunrise Wind’s activities on relevant resources, and if appropriate, issue the authorization. NMFS needs to render a decision regarding the request for authorization due to NMFS’ responsibilities under the MMPA (16 U.S.C. 1371(a)(5)(D)) and its implementing regulations. If, after independent review, NMFS makes the findings necessary to issue the requested authorization, NMFS intends to adopt BOEM’s environmental impact statement (EIS) to support that decision and fulfill its National Environmental Policy Act (NEPA) requirements.

The U.S. Army Corps of Engineers (USACE) New York District anticipates a permit action to be undertaken

through authority delegated to the District Engineer by 33 CFR 325.8, under section 10 of the Rivers and Harbors Act of 1899 (RHA) (33 U.S.C. 403) and section 404 of the Clean Water Act (CWA) (33 U.S.C. 1344). In addition, it is anticipated that a section 408 permission will be required pursuant to Section 14 of the RHA of 1899 (33 U.S.C. 408) for any proposed alterations that have the potential to alter, occupy or use any USACE federally authorized Civil Works projects. The USACE considers issuance of a permit under these three delegated authorities a major Federal action connected to BOEM’s Proposed Action (40 CFR 1501.9(e)(1)). Sunrise Wind’s stated purpose and need for the project, as indicated above, is to provide a commercially viable offshore wind energy project within the Lease Area to help New York achieve its renewable energy goals. The basic project purpose, as determined by USACE for section 404(b)(1) guidelines evaluation, is offshore wind energy generation. The overall project purpose for section 404(b)(1) guidelines evaluation, as determined by USACE, is the construction and operation of a commercial-scale offshore wind energy project for renewable energy generation and distribution to the New York energy grid. The purpose of USACE section 408 action as determined by EC 1165–2–220 is to evaluate the applicant’s request and determine whether the proposed alterations are injurious to the public interest or impair the usefulness of the USACE project. USACE section 408 permission is needed to ensure that Congressionally authorized projects continue to provide their intended benefits to the public. USACE intends to adopt BOEM’s EIS to support its decision on any permits/permissions requested under section 10 of the RHA, or section 404 of the CWA, and section 408 of the RHA. The USACE would adopt the EIS per 40 CFR 1506.3 if, after its independent review of the document, it concludes that the EIS satisfies the USACE’s comments and recommendations. Based on its participation as a cooperating agency and its consideration of the final EIS, the USACE would issue a Record of Decision to formally document its decision on the proposed action.

**Preliminary Proposed Action and Alternatives**

As noted above, Sunrise Wind is proposing to construct and operate up to 122 wind turbine generators, an OCS–DC, inter-array cables, an OnCS–DC, an offshore transmission cable making landfall on Long Island, New York, and an onshore interconnection cable to the



Long Island Power Authority Holbrook Substation. The wind turbine generator foundations may be monopiles or gravity base structures with associated support and access structures, in some combination or entirely of one kind. The wind turbine generators, offshore substations, foundations, and inter-array cables would be located within the Lease Area in federal waters approximately 18.9 statute miles (mi) (16.4 nautical miles [nm], 30.4 kilometers [km]) south of Martha's Vineyard, Massachusetts; approximately 30.5 mi (26.5 nm, 48.1 km) east of Montauk, New York, and approximately 16.7 mi (14.5 nm, 26.8 km) from Block Island, Rhode Island. The offshore export cables would be buried below the seabed in federal and New York State waters. If any reasonable alternatives are identified during the scoping period, BOEM will evaluate those alternatives in the draft EIS, which will also include a no action alternative. Under the no action alternative, BOEM would disapprove the COP and the proposed wind energy facility would not be built.

Once BOEM completes the EIS and associated consultations, BOEM will decide whether to approve, approve with modification, or disapprove the Sunrise Wind COP. If BOEM approves the COP, Sunrise Wind must comply with all conditions of its approval.

#### Summary of Potential Impacts

The draft EIS will identify and describe the potential effects of the Proposed Action on the human environment that are reasonably foreseeable and have a reasonably close causal relationship to the Proposed Action. This includes such effects that occur at the same time and place as the Proposed Action or alternatives and effects that are later in time or occur in a different place. Potential impacts include, but are not limited to, impacts (whether beneficial or adverse) on air quality, water quality, bats, benthic habitat, essential fish habitat, invertebrates, finfish, birds, marine mammals, terrestrial and coastal habitats and fauna, sea turtles, wetlands and other waters of the United States, commercial fisheries and for-hire recreational fishing, cultural resources, demographics, employment, economics, environmental justice, land use and coastal infrastructure, navigation and vessel traffic, other marine uses, recreation and tourism, and visual resources. These potential impacts will be analyzed in the draft and final EIS.

Based on a preliminary evaluation of these resources, BOEM expects potential impacts on sea turtles and marine

mammals from underwater noise caused by construction and from collision risks with Project-related vessel traffic. Structures installed by the Project could permanently change benthic habitat and other fish habitat (e.g., creation of artificial reefs). Commercial fisheries and for-hire recreational fishing could be impacted. Project structures above the water could affect the visual character defining historic properties and have visual impacts on recreational and tourism areas. Project structures also would pose an allision and height hazard to vessels passing close by, and vessels would in turn pose a hazard to the structures. Additionally, the Project could cause conflicts with military activities, air traffic, land-based radar services, cables and pipelines, and scientific surveys. Beneficial impacts are also expected by facilitating achievement of State renewable energy goals, increasing job opportunities, improving air quality, and reducing carbon emissions. Specifically, for increasing job opportunities, an 880 MW Sunrise Wind project is estimated to support more than 2,500 job-years during the development and construction phases of the project. During the operations and maintenance phase an 880 MW Sunrise offshore wind project will support about 270 jobs per year during its 35-year operational phase. If Sunrise Wind increases the MW installed, the number of jobs supported will be greater than the estimates cited for the 880 MW project. The EIS will analyze measures that would avoid, minimize, or mitigate environmental effects.

#### Anticipated Permits and Authorizations

In addition to the requested COP approval, various other Federal, State, and local authorizations will be required for the Project. Applicable Federal laws include the Endangered Species Act, Magnuson-Stevens Fishery Conservation and Management Act, NEPA, MMPA, RHA, CWA, and the Coastal Zone Management Act. BOEM will also conduct government-to-government Tribal consultations. For a detailed listing of regulatory requirements applicable to the Project, please see the COP, volume I, available at <https://www.boem.gov/Sunrise-Wind>.

BOEM has chosen to use the NEPA substitution process to fulfill its obligations under NHPA. While BOEM's obligations under NHPA and NEPA are independent, regulations implementing section 106 of the NHPA, at 36 CFR 800.8(c), allow the NEPA process and documentation to substitute for various aspects of review otherwise required under the NHPA. This substitution is

intended to improve efficiency, promote transparency and accountability, and support a broadened discussion of potential effects that a project could have on the human environment. During preparation of the EIS, BOEM will ensure that the NEPA substitution process will fully meet all NHPA obligations.

#### Schedule for the Decision-Making Process

After the draft EIS is completed, BOEM will publish a notice of availability (NOA) and request public comments on the draft EIS. BOEM currently expects to issue the NOA in October 2022. After the public comment period ends, BOEM will review and respond to comments received and will develop the final EIS. BOEM currently expects to make the final EIS available to the public in July 2023. A record of decision (ROD) will be completed no sooner than 30 days after the final EIS is released, in accordance with 40 CFR 1506.11.

This project is a "covered project" under section 41 of the Fixing America's Surface Transportation Act (FAST-41). FAST-41 provides increased transparency and predictability by requiring Federal agencies to publish comprehensive permitting timetables for all covered projects. FAST-41 also provides procedures for modifying permitting timetables to address the unpredictability inherent in the environmental review and permitting process for significant infrastructure projects. To view the FAST-41 Permitting Dashboard for the Project, visit: <https://cms.permits.performance.gov/permitting-project/sunrise-wind-farm>.

#### Scoping Process

This NOI commences the public scoping process to identify issues and potential alternatives for consideration in the Sunrise Wind EIS. BOEM will hold virtual public scoping meetings at the times and dates described above. Throughout the scoping process, Federal agencies, state, tribal, and local governments, and the general public have the opportunity to help BOEM identify significant resources and issues, impact-producing factors, reasonable alternatives (e.g., size, geographic, seasonal, or other restrictions on construction and siting of facilities and activities), and potential mitigation measures to be analyzed in the EIS, as well as to provide additional information.

As noted above, BOEM will use the NEPA substitution process provided for in the NHPA regulations. BOEM will

consider all written requests from individuals or organizations to participate as consulting parties under NHPA and, as discussed below, will determine who among those parties will be a consulting party in accordance with NHPA regulations.

**NEPA Cooperating Agencies:** BOEM invites other Federal agencies and state, tribal, and local governments to consider becoming cooperating agencies in the preparation of this EIS. The NEPA regulations specify that qualified agencies and governments are those with “jurisdiction by law or special expertise.” Potential cooperating agencies should consider their authority and capacity to assume the responsibilities of a cooperating agency and should be aware that an agency’s role in the environmental analysis neither enlarges nor diminishes the final decision-making authority of any other agency involved in the NEPA process.

Upon request, BOEM will provide potential cooperating agencies with a written summary of expectations for cooperating agencies, including schedules, milestones, responsibilities, scope and detail of cooperating agencies’ contributions, and availability of pre-decisional information. BOEM anticipates this summary will form the basis for a memorandum of agreement between BOEM and any non-Department of the Interior cooperating agency. Agencies also should consider the factors for determining cooperating agency status in the Council on Environmental Quality memorandum entitled, “Cooperating Agencies in Implementing the Procedural Requirements of the National Environmental Policy Act,” dated January 30, 2002. This document is available on the internet at: [http://energy.gov/sites/prod/files/nepapub/nepa\\_documents/RedDont/G-CEQ-CoopAgenciesImplem.pdf](http://energy.gov/sites/prod/files/nepapub/nepa_documents/RedDont/G-CEQ-CoopAgenciesImplem.pdf).

BOEM, as the lead agency, does not provide financial assistance to cooperating agencies. Governmental entities that are not cooperating agencies will have opportunities to provide information and comments to BOEM during the public input stages of the NEPA process.

**NHPA Consulting Parties:** Certain individuals and organizations with a demonstrated interest in the Project can request to participate as NHPA consulting parties under 36 CFR 800.2(c)(5) based on their legal or economic stake in historic properties affected by the Project. Interested parties are referred to that provision to learn under what circumstances and how those with concerns about the Project’s

effect on historic properties may request to be consulting parties.

Before issuing this NOI, BOEM compiled a list of potential consulting parties and invited them in writing to become consulting parties. To become a consulting party, those invited must respond in writing, by the requested response date.

Interested individuals or organizations that did not receive an invitation can request to be consulting parties by writing to the appropriate staff at SEARCH, the third party EIS contractor supporting BOEM in its administration of this review. SEARCH’s NHPA contact for this review is Dr. Barry Bleichner (504–291–6446), [barry@searchinc.com](mailto:barry@searchinc.com). BOEM will determine which interested parties should be consulting parties.

**Comments:** Federal agencies, tribal, state, and local governments, and other interested parties are requested to comment on the scope of this EIS, significant issues that should be addressed, and alternatives that should be considered. For information on how to submit comments, see the **ADDRESSES** section above.

BOEM does not consider anonymous comments. Please include your name and address as part of your comment. BOEM makes all comments, including the names, addresses, and other personally identifiable information included in the comment, available for public review online. Individuals can request that BOEM withhold their names, addresses, or other personally identifiable information included in their comment from the public record; however, BOEM cannot guarantee that it will be able to do so. In order for BOEM to withhold from disclosure your personally identifiable information, you must identify any information contained in your comments that, if released, would constitute a clearly unwarranted invasion of your privacy. You also must briefly describe any possible harmful consequences of the disclosure of information, such as embarrassment, injury, or other harm.

Additionally, under section 304 of NHPA, BOEM is required, after consultation with the Secretary of the Interior, to withhold the location, character, or ownership of historic resources if it determines that disclosure may, among other things, cause a significant invasion of privacy, risk harm to the historic resources, or impede the use of a traditional religious site by practitioners. Tribal entities and other parties providing information on historic resources should designate information that they wish to be held as

confidential and provide the reasons why BOEM should do so.

All submissions from organizations or businesses and from individuals identifying themselves as representatives or officials of organizations or businesses will be made available for public inspection in their entirety.

### **Request for Identification of Potential Alternatives, Information, and Analyses Relevant to the Proposed Action**

BOEM requests data, comments, views, information, analysis, alternatives, or suggestions from the public; affected Federal, state, tribal, and local governments, agencies, and offices; the scientific community; industry; or any other interested party on the Proposed Action. Specifically, BOEM requests information on the following topics:

1. Potential effects that the Proposed Action could have on biological resources, including bats, birds, coastal fauna, finfish, invertebrates, essential fish habitat, marine mammals, and sea turtles.
2. Potential effects that the Proposed Action could have on physical resources and conditions including air quality, water quality, and wetlands and other waters of the United States.
3. Potential effects that the Proposed Action could have on socioeconomic and cultural resources, including commercial fisheries and for-hire recreational fishing, demographics, employment, economics, environmental justice, land use and coastal infrastructure, navigation and vessel traffic, other uses (marine minerals, military use, aviation), recreation and tourism, and scenic and visual resources.
4. Other possible reasonable alternatives to the Proposed Action that BOEM should consider, including additional or alternative avoidance, minimization, and mitigation measures.
5. As part of its compliance with NHPA section 106 and its implementing regulations (36 CFR part 800), BOEM seeks comment and input from the public and consulting parties regarding the identification of historic properties within the Proposed Action’s area of potential effects, the potential effects on those historic properties from the activities proposed in the COP, and any information that supports identification of historic properties under NHPA. BOEM also solicits proposed measures to avoid, minimize, or mitigate any adverse effects on historic properties. BOEM will present available information regarding known historic

properties during the public scoping period at <https://www.boem.gov/Sunrise-Wind/>. BOEM's effects analysis for historic properties will be available for public and consulting party comment in the draft EIS.

6. Information on other current or planned activities in, or in the vicinity of, the Proposed Action and their possible impacts on the Project or the Project's impacts on those activities.

7. Other information relevant to the Proposed Action and its impacts on the human environment.

To promote informed decision-making, comments should be as specific as possible and should provide as much detail as necessary to meaningfully and fully inform BOEM of the commenter's position. Comments should explain why the issues raised are important to the consideration of potential environmental impacts and alternatives to the Proposed Action as well as economic, employment, and other impacts affecting the quality of the human environment.

The draft EIS will include a summary of all alternatives, information, and analyses submitted during the scoping process for consideration by BOEM and the cooperating agencies.

*Authority:* This NOI is published in accordance with NEPA, 42 U.S.C. 4321 *et seq.*, and 40 CFR 1501.9.

**William Yancey Brown,**

*Chief Environmental Officer, Bureau of Ocean Energy Management.*

[FR Doc. 2021-18741 Filed 8-30-21; 8:45 am]

**BILLING CODE 4310-MR-P**

## JUDICIAL CONFERENCE OF THE UNITED STATES

### Advisory Committee on Civil Rules; Meeting of the Judicial Conference

**AGENCY:** Judicial Conference of the United States.

**ACTION:** Advisory Committee on Civil Rules; revised notice of open meeting.

**SUMMARY:** The Advisory Committee on Civil Rules will hold a virtual meeting on October 5, 2021 rather than meeting in person. The meeting is open to the public. When a meeting is held virtually, members of the public may join by telephone or video conference to observe but not participate. An agenda and supporting materials will be posted at least 7 days in advance of the meeting at: <http://www.uscourts.gov/rules-policies/records-and-archives-rules-committees/agenda-books>. The announcement for this meeting was previously published in the **Federal Register** on June 28, 2021.

**DATES:** October 5, 2021, 10 a.m. (Eastern).

**FOR FURTHER INFORMATION CONTACT:** Scott Myers, Esq., Acting Chief Counsel, Rules Committee Staff, Administrative Office of the U.S. Courts, Thurgood Marshall Federal Judiciary Building, One Columbus Circle NE, Suite 7-300, Washington, DC 20544, Phone (202) 502-1820, [RulesCommittee\\_Secretary@ao.uscourts.gov](mailto:RulesCommittee_Secretary@ao.uscourts.gov).

(Authority: 28 U.S.C. 2073.)

Dated: August 26, 2021.

**Shelly L. Cox,**

*Management Analyst, Rules Committee Staff.*

[FR Doc. 2021-18758 Filed 8-30-21; 8:45 am]

**BILLING CODE 2210-55-P**

## JUDICIAL CONFERENCE OF THE UNITED STATES

### Advisory Committee on Appellate Rules; Meeting of the Judicial Conference

**AGENCY:** Judicial Conference of the United States.

**ACTION:** Advisory Committee on Appellate Rules; revised notice of open meeting.

**SUMMARY:** The Advisory Committee on Appellate Rules will hold a virtual meeting on October 7, 2021 rather than meeting in person. The meeting is open to the public. When a meeting is held virtually, members of the public may join by telephone or video conference to observe but not participate. An agenda and supporting materials will be posted at least 7 days in advance of the meeting at: <http://www.uscourts.gov/rules-policies/records-and-archives-rules-committees/agenda-books>. The announcement for this meeting was previously published in the **Federal Register** on June 28, 2021.

**DATES:** October 7, 2021, 10 a.m. (Eastern).

**FOR FURTHER INFORMATION CONTACT:** Scott Myers, Esq., Acting Chief Counsel, Rules Committee Staff, Administrative Office of the U.S. Courts, Thurgood Marshall Federal Judiciary Building, One Columbus Circle NE, Suite 7-300, Washington, DC 20544, Phone (202) 502-1820, [RulesCommittee\\_Secretary@ao.uscourts.gov](mailto:RulesCommittee_Secretary@ao.uscourts.gov).

(Authority: 28 U.S.C. 2073.)

Dated: August 26, 2021.

**Shelly L. Cox,**

*Management Analyst, Rules Committee Staff.*

[FR Doc. 2021-18763 Filed 8-30-21; 8:45 am]

**BILLING CODE 2210-55-P**

## JUDICIAL CONFERENCE OF THE UNITED STATES

### Advisory Committee on Bankruptcy Rules; Meeting of the Judicial Conference

**AGENCY:** Judicial Conference of the United States.

**ACTION:** Advisory Committee on Bankruptcy Rules; revised notice of open meeting.

**SUMMARY:** The Advisory Committee on Bankruptcy Rules will hold a virtual meeting on September 14, 2021 rather than meeting in person. The meeting is open to the public. When a meeting is held virtually, members of the public may join by telephone or video conference to observe but not participate. An agenda and supporting materials will be posted at least 7 days in advance of the meeting at: <http://www.uscourts.gov/rules-policies/records-and-archives-rules-committees/agenda-books>. The announcement for this meeting was previously published in the **Federal Register** on June 28, 2021.

**DATES:** September 14, 2021, 10 a.m. (Eastern).

**FOR FURTHER INFORMATION CONTACT:** Scott Myers, Esq., Acting Chief Counsel, Rules Committee Staff, Administrative Office of the U.S. Courts, Thurgood Marshall Federal Judiciary Building, One Columbus Circle NE, Suite 7-300, Washington, DC 20544, Phone (202) 502-1820, [RulesCommittee\\_Secretary@ao.uscourts.gov](mailto:RulesCommittee_Secretary@ao.uscourts.gov).

(Authority: 28 U.S.C. 2073.)

Dated: August 25, 2021.

**Shelly L. Cox,**

*Management Analyst, Rules Committee Staff.*

[FR Doc. 2021-18693 Filed 8-30-21; 8:45 am]

**BILLING CODE 2210-55-P**

## DEPARTMENT OF LABOR

### Employee Benefits Security Administration

#### 208th Meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans; Notice of Teleconference Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the 208th open meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans (also known as the ERISA Advisory Council) will be held via a teleconference on Thursday, September 30, 2021.

The meeting will begin at 10:00 a.m. and end at approximately 4:00 p.m. with a one-hour break for lunch. The purpose of the open meeting is for the members of the ERISA Advisory Council to discuss potential recommendations for the Secretary of Labor on the issues of: (1) Gaps in Retirement Savings Based on Race, Ethnicity and Gender, and (2) Understanding Brokerage Windows in Self-Directed Retirement Plans. Descriptions of these topics are available on the ERISA Advisory Council's web page at <https://www.dol.gov/agencies/ebsa/about-ebsa/about-us/erisa-advisory-council>.

Instructions for public access to the teleconference meeting will be available on the ERISA Advisory Council's web page at <https://www.dol.gov/agencies/ebsa/about-ebsa/about-us/erisa-advisory-council> prior to the meeting.

Organizations or members of the public wishing to submit a written statement may do so on or before Thursday, September 23, 2021, to Christine Donahue, Executive Secretary, ERISA Advisory Council. Statements should be transmitted electronically as an email attachment in text or pdf format to [donahue.christine@dol.gov](mailto:donahue.christine@dol.gov). Statements transmitted electronically that are included in the body of the email will not be accepted. Relevant statements received on or before Thursday, September 23, 2021, will be included in the record of the meeting and made available through the Employee Benefits Security Administration Public Disclosure Room. No deletions, modifications, or redactions will be made to the statements received as they are public records.

Individuals or representatives of organizations wishing to address the ERISA Advisory Council should forward their requests to the Executive Secretary no later than Thursday, September 23, 2021, via email to [donahue.christine@dol.gov](mailto:donahue.christine@dol.gov) or by telephoning (202) 693-8641. Oral presentations will be limited to ten minutes, time permitting, but an extended statement may be submitted for the record.

Individuals who need special accommodations should contact the Executive Secretary no later than Thursday, September 23, 2021, via email to [donahue.christine@dol.gov](mailto:donahue.christine@dol.gov) or by telephoning (202) 693-8641.

For more information about the meeting, contact the Executive Secretary at the address or telephone number above.

Signed at Washington, DC, this 25th day of August, 2021.

**Ali Khawar,**

*Acting Assistant Secretary, Employee Benefits Security Administration.*

[FR Doc. 2021-18745 Filed 8-30-21; 8:45 am]

**BILLING CODE 4510-29-P**

## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

[OMB Control No. 1219-0121]

#### Proposed Extension of Information Collection; Safety Standards for Roof Bolts in Metal and Nonmetal Mines and Underground Coal Mines

**AGENCY:** Mine Safety and Health Administration, Labor.

**ACTION:** Request for public comments.

**SUMMARY:** The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance request for comment to provide the general public and Federal agencies with an opportunity to comment on proposed collections of information in accordance with the Paperwork Reduction Act of 1995. This request helps to ensure that: Requested data can be provided in the desired format; reporting burden (time and financial resources) is minimized; collection instruments are clearly understood; and the impact of collection requirements on respondents can be properly assessed. Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments on the information collection for Safety Standards for Roof Bolts in Metal and Nonmetal Mines and Underground Coal Mines.

**DATES:** All comments must be received on or before November 1, 2021.

**ADDRESSES:** You may submit comment as follows. Please note that late, untimely filed comments will not be considered.

*Electronic Submissions:* Submit electronic comments in the following way:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments for docket number MSHA-2021-0027. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket, with no changes. Because your comment will be made public, you are responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as your or anyone else's Social

Security number or confidential business information.

- If your comment includes confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission.

*Written/Paper Submissions:* Submit written/paper submissions in the following way:

- *Mail/Hand Delivery:* Mail or visit DOL-MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, VA 22202-5452.

- MSHA will post your comment as well as any attachments, except for information submitted and marked as confidential, in the docket at <https://www.regulations.gov>.

#### FOR FURTHER INFORMATION CONTACT:

Jessica Senk, Director, Office of Standards, Regulations, and Variances, MSHA, at [MSHA.information.collections@dol.gov](mailto:MSHA.information.collections@dol.gov) (email); (202) 693-9440 (voice); or (202) 693-9441 (facsimile).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 813(h), authorizes MSHA to collect information necessary to carry out its duty in protecting the safety and health of miners. Further, section 101(a) of the Mine Act, 30 U.S.C. 811, authorizes the Secretary of Labor (Secretary) to develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal and metal and nonmetal mines.

Accidents involving falls of roof, face, and rib in underground mines or falls of highwall in surface mines, historically, have been among the leading causes of miners' injuries and deaths. Prevention or control of falls of roof, face, and rib is uniquely difficult because of the variety of conditions encountered in mines that can affect the stability of various types of strata and the changing nature of the forces affecting ground stability at any given operation and time. Roof and rock bolts and accessories are integral parts of ground control systems and are used to prevent the fall of roof, face, and rib. Advancements in the technology of roof and rock bolts and accessories have aided in reducing the hazards associated with falls of roof, face, and rib.

The American Society for Testing and Materials (ASTM) publication "Standard Specification for Roof and Rock Bolts and Accessories" is a

consensus standard used throughout the United States. It contains specifications for the chemical, mechanical, and dimensional requirements for roof and rock bolts and accessories used for ground support systems. The ASTM standard for roof and rock bolts and accessories is updated periodically to reflect advances in technology.

Title 30 Code of Federal Regulations, parts 56 and 57 Subpart B—Ground Control, sections 56.3203 and 57.3203, and part 75 Subpart C—Roof Support, section 75.204, address the quality of roof and rock bolts and accessories and their installation. MSHA's objective in these regulations is to ensure the quality and effectiveness of roof and rock bolts and accessories and, as technology evolves, to allow for the use of new materials which are proven to be reliable and effective in controlling the mine roof, face, and rib.

Title 30 CFR 56.3203(a), 57.3203(a), and 75.204(a) require: (1) That mine operators obtain a certification from the manufacturer that roof and rock bolts and accessories are manufactured and tested in accordance with the applicable ASTM specifications, and (2) that the manufacturer's certification is made available to an authorized representative of the Secretary.

Title 30 CFR 56.3203(h) and 57.3203(h) require that if the mine operator uses other tensioned and non-tensioned fixtures and accessories for ground control that are not addressed by the applicable ASTM standard listed in sections 56.3203(a) and 57.3203(a), test methods must be established by the mine operator and used to verify their ground control effectiveness. Title 30 CFR 56.3203(i) and 57.3203(i) require the mine operator to certify that the tests developed under sections 56.3203(h) and 57.3203(h) were conducted and such certifications be made available to an authorized representative of the Secretary.

Title 30 CFR 75.204(f)(6) requires that the mine operator or a person designated by the operator certify by signature and date that the measurements required by paragraph (f)(5) of this section have been made. Paragraph (f)(5) requires that in working places from which coal is produced during any portion of a 24-hour period, the actual torque or tension on at least 1 out of every 10 previously installed mechanically anchored tensioned roof bolts is measured from the outby corner of the last open crosscut to the face in each advancing section. This certification shall be maintained for at least 1 year and shall be made available to an authorized representative of the Secretary and representatives of miners.

The certification requirements are necessary to ensure compliance with the requirements for roof and rock bolts and accessories.

## II. Desired Focus of Comments

MSHA is soliciting comments concerning the proposed information collection related to Safety Standards for Roof Bolts in Metal and Nonmetal Mines and Underground Coal Mines. MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information has practical utility;
- Evaluate the accuracy of MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Background documents related to this information collection request are available at <https://regulations.gov> and at DOL-MSHA located at 201 12th Street South, Suite 4E401, Arlington, VA 22202-5452. Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION** section of this notice.

## III. Current Actions

This information collection request concerns provisions for Safety Standards for Roof Bolts in Metal and Nonmetal Mines and Underground Coal Mines. MSHA has updated the data with respect to the number of respondents, responses, burden hours, and burden costs supporting this information collection request from the previous information collection request.

*Type of Review:* Extension, without change, of a currently approved collection.

*Agency:* Mine Safety and Health Administration.

*OMB Number:* 1219-0121.

*Affected Public:* Business or other for-profit.

*Number of Respondents:* 345.

*Frequency:* On occasion.

*Number of Responses:* 43,558.

*Annual Burden Hours:* 420 hours.

*Annual Respondent or Recordkeeper Cost:* \$0.

Comments submitted in response to this notice will be summarized in the request for Office of Management and Budget approval of the proposed information collection request; they will become a matter of public record and will be available at <https://www.reginfo.gov>.

**Jessica Senk,**

*Certifying Officer.*

[FR Doc. 2021-18712 Filed 8-30-21; 8:45 am]

**BILLING CODE 4510-43-P**

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## NATIONAL SCIENCE FOUNDATION

### Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978

**AGENCY:** National Science Foundation.

**ACTION:** Notice of permit applications received.

**SUMMARY:** The National Science Foundation (NSF) is required to publish a notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act in the Code of Federal Regulations. This is the required notice of permit applications received.

**DATES:** Interested parties are invited to submit written data, comments, or views with respect to this permit application by September 30, 2021. This application may be inspected by interested parties at the Permit Office, address below.

**ADDRESSES:** Comments should be addressed to Permit Office, Office of Polar Programs, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, Virginia 22314 or [ACApermits@nsf.gov](mailto:ACApermits@nsf.gov)

**FOR FURTHER INFORMATION CONTACT:** Polly Penhale, ACA Permit Officer, at the above address, 703-292-8030.

**SUPPLEMENTARY INFORMATION:** The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Public Law 95-541, 45 CFR 671), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

**Application Details****Permit Application: 2022-007**

1. *Applicant:* Dr. Robert Sanders, Dept. of Biology, Temple University, 1900 N. 12th St., Philadelphia PA 19122

*Activity for Which Permit Is Requested:* Importation of non-indigenous species. The applicant requests an Antarctic Conservation Act permit for use of bacterial cultures as a food source during a study of Antarctic mixotrophic phytoplankton aboard U.S. Antarctic Program vessels. The bacterial culture is a non-pathogenic marine species (*Photobacterium angustum*) obtained from American Type Culture Collection. Bacterial cultures will be fed to natural phytoplankton communities in a sealed, controlled setting aboard the vessel and isolated from the environment. At the conclusion of the experiments, any sample or culture remaining, including filtered seawater, would be destroyed by autoclaving on the ship. Supplies and equipment would be sterilized at the end of each experiment by autoclaving or using ethanol. The applicant and permit agents are experienced in using sterile techniques and in maintaining safe practices with microbial cultures.

*Location:* Western Antarctic Peninsula Region.

*Dates of Permitted Activities:* April 15–July 11, 2022.

**Permit Application: 2022-009**

2. *Applicant:* Steven D. Emslie, Dept. of Biology and Marine Biology, University of North Carolina, Wilmington, N.C. 28403

*Activity for Which Permit Is Requested:* Import into the U.S.A. The applicant seeks an Antarctic Conservation Act permit for the importation of tissue samples collected in the Ross Sea Region, Antarctica. Samples to be imported include avian bones and feathers collected from salvaged remains as well as fish, squid, krill, and marine algae samples collected opportunistically. Samples will be collected by Dr. Xiadong Liu, a collaborator of the applicant authorized under the Chinese Antarctic Program and shipped to the United States. Importation of these samples will allow for increased data collection and help to mitigate impacts to field research caused by the Covid-19 pandemic.

*Location:* Ross Sea Region, Antarctica.

*Dates of Permitted Activities:* February 1, 2022–January 31, 2023.

**Erika N. Davis,**

*Program Specialist, Office of Polar Programs.*

[FR Doc. 2021-18747 Filed 8-30-21; 8:45 am]

**BILLING CODE 7555-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-92748; File No. SR-DTC-2021-011]

**Self-Regulatory Organizations; Depository Trust Company; Notice of Designation of Longer Period for Commission Action on Proposed Rule Change Relating to Confidential Information, Market Disruption Events, Systems Disconnect, and Other Changes**

August 25, 2021.

**I. Introduction**

On June 25, 2021, Depository Trust Company (“DTC”) filed with the Securities and Exchange Commission (“Commission”) proposed rule change SR-DTC-2021-011 (the “Proposed Rule Change”) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) <sup>1</sup> and Rule 19b-4 thereunder <sup>2</sup> to amend DTC’s rules relating to confidentiality requirements, market disruption events, systems disconnect, and other changes. The Proposed Rule Change was published for comment in the **Federal Register** on July 13, 2021,<sup>3</sup> and the Commission received one comment on Proposed Rule Change.<sup>4</sup>

Section 19(b)(2) of the Act <sup>5</sup> provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for the Proposed Rule Change is effectively Friday, August 27, 2021.

The Commission is extending the 45-day review period for Commission action on the Proposed Rule Change. In order to provide the Commission with sufficient time to consider the Proposed Rule Change, the Commission finds that it is appropriate to designate a longer period within which to take action on the Proposed Rule Change.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Securities Exchange Act Release No. 92342 (June 25, 2021), 86 FR 36833 (July 13, 2021) (File No. SR-DTC-2021-011).

<sup>4</sup> The comment letter is available on the Commission’s website at <https://www.sec.gov/comments/sr-dtc-2021-011/srdtc2021011.htm>.

<sup>5</sup> 15 U.S.C. 78s(b)(2).

Accordingly, pursuant to Section 19(b)(2) of the Act <sup>6</sup> and for the reasons stated above, the Commission designates Friday, October 8, 2021, as the date by which the Commission shall either approve, disapprove, or institute proceedings to determine whether to disapprove the Proposed Rule Change (File No. SR-DTC-2021-011).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>7</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2021-18670 Filed 8-30-21; 8:45 am]

**BILLING CODE 8011-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-92756; File No. SR-FICC-2021-007]

**Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing of Proposed Rule Change To Remove the Early Unwind Intraday Charge, Change the Treatment of Short-Term Treasuries, and Make Other Changes**

August 25, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) <sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on August 13, 2021, Fixed Income Clearing Corporation (“FICC”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Clearing Agency’s Statement of the Terms of Substance of the Proposed Rule Change**

The proposed rule change consists of amendments to (i) the FICC Government Securities Division (“GSD”) Rulebook (“Rules”) <sup>3</sup> in order to remove the Early Unwind Intraday Charge (“EUIC”), (ii) the GSD Methodology Document—GSD Initial Market Risk Margin Model (“QRM Methodology Document”) <sup>4</sup> to

<sup>6</sup> *Id.*

<sup>7</sup> 17 CFR 200.30-3(a)(31).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Capitalized terms used herein and not defined shall have the meaning assigned to such terms in the Rules, available at <http://www.dtcc.com/legal/rules-and-procedures.aspx>.

<sup>4</sup> The QRM Methodology Document was filed as a confidential exhibit in the rule filing and advance notice for GSD sensitivity VaR. See Securities

change the treatment of U.S. Treasury (“Treasury”) securities with remaining time-to-maturities equal to or less than a year (“Short-Term Treasuries”), and (iii) the Rules and the QRM Methodology Document to make certain technical changes, as described in greater detail below.

FICC is requesting confidential treatment of the QRM Methodology Document and has filed it separately with the Secretary of the Commission.<sup>5</sup>

## II. Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

### (A) Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

#### 1. Purpose

FICC is proposing to amend (i) the Rules in order to eliminate the EUIC, (ii) the QRM Methodology Document to change the treatment of Short-Term Treasuries, and (iii) the Rules and the QRM Methodology Document to make certain technical changes, as described in greater detail below.

#### (1) Eliminate the EUIC

In 2014, FICC received Commission approval to add the EUIC<sup>6</sup> as a component of the intraday GSD Required Fund Deposit. FICC established the EUIC to address two situations in the GCF Repo<sup>®</sup> Service<sup>7</sup> at the time, where the substitution of securities with cash (“Cash Substitution”) created a potential for under-margining.

The first Cash Substitution situation occurred in certain instances where, on

an intraday basis, a GCF Repo participant substituted cash for the securities that were used as collateral for a GCF Repo position the prior day. The second Cash Substitution situation occurred when the GCF Clearing Agent Bank unwound the cash lending side of a GCF Repo Transaction that occurred on an inter-clearing bank basis<sup>8</sup> at approximately 7:30 a.m.<sup>9</sup> Both of these Cash Substitution situations had the potential to result in higher cash balances in the underlying collateral of GCF Repo positions at noon when FICC was calculating the intraday GSD Required Fund Deposit requirement. Because there is no VaR Charge associated with cash collateral, and because the GCF Repo participant is likely to replace the cash with securities (which would be subject to the VaR Charge) by end of day, the potential for an under-margined condition at the noon calculation can occur. As stated above, the EUIC is meant to address this potential under-margined situation.

FICC believes that there is a more accurate approach than the EUIC that addresses the under-margined situation that can occur in certain instances with respect to the first Cash Substitution situation described above. Specifically, FICC can and does calculate and assess an Intraday Supplemental Fund Deposit amount, if necessary.<sup>10</sup> In 2018, FICC amended its calculation of the VaR Charge by, among other things, replacing its full revaluation approach with the sensitivity approach.<sup>11</sup> FICC also provided transparency with respect to FICC’s existing authority to calculate and assess Intraday Supplemental Fund Deposit amounts in the 2018 Filing.<sup>12</sup> Because of these changes, FICC now believes that calculating and assessing an Intraday Supplemental Deposit amount, if necessary, rather than the EUIC is a more accurate approach to addressing the under-margined situation described above.

FICC receives hourly intraday GCF Repo lockup files<sup>13</sup> from 8:00 a.m. to 3:00 p.m. from The Bank of New York Mellon. These hourly intraday GCF Repo lockup files provide FICC with information with respect to the GCF Repo participants’ positions throughout the day that FICC can use to calculate an intraday VaR Charge. As such, throughout the day, FICC can use the information in these files to assess the exposure that arises from collateral substitution (in addition to any other position changes) and can charge an Intraday Supplemental Fund Deposit amount to the GCF Repo participant, if necessary, to address this exposure. The current EUIC is only applied based on a Netting Member’s 12:00 p.m. (noon) GCF Repo positions, as the lesser of (i) the net reduction in the VaR Charge attributable to either cash substitutions or (ii) the prior end of day VaR Charge minus the intraday VaR Charge. With the Intraday Supplemental Fund Deposit (which FICC is able to charge throughout the day) and the hourly information that it receives from The Bank of New York Mellon, FICC is able to more accurately address any potential under-margining from collateral substitutions that occur after 12:00 p.m. Because FICC mitigates any exposure that occurs from collateral substitutions throughout the day by charging the Intraday Supplemental Fund Deposit, FICC is proposing to eliminate the EUIC.

Regarding the second Cash Substitution situation described above, the EUIC is no longer applicable because the morning unwind of cash and securities has been eliminated. The morning unwind of cash and securities has been eliminated because the GCF Repo Service now operates on an intra-clearing bank basis. In 2016, interbank services were suspended.<sup>14</sup> As such, because there is no longer any potential for under-margining due to the unwind of the cash lending side of a GCF Repo Transaction that occurred on an inter-clearing bank basis at 7:30 a.m., FICC is proposing to eliminate the EUIC.

To effectuate this proposed change, FICC would revise Rule 1 to remove the defined term, Early Unwind Intraday Charge. In addition, FICC proposes to revise Section 1b of Rule 4 by deleting paragraph (iii), which references the EUIC. Section 1b describes the calculation of the Unadjusted GSD Margin Portfolio Amount.

<sup>13</sup> Lockup files refers to the collateral that GCF Repo participants have allocated to satisfy their Collateral Allocation Obligations.

<sup>14</sup> See *supra* note 8.

Exchange Act Release Nos. 83362 (June 1, 2018), 83 FR 26514 (June 7, 2018) (SR-FICC-2018-001) and 83223 (May 11, 2018), 83 FR 23020 (May 17, 2018) (SR-FICC-2018-801).

<sup>5</sup> See 17 CFR 240.24b-2.

<sup>6</sup> See Securities Exchange Act Release Nos. 73389 (October 17, 2014), 79 FR 63456 (October 23, 2014) (SR-FICC-2014-01) and 73388 (October 17, 2014), 79 FR 63458 (October 23, 2014) (SR-FICC-2014-801).

<sup>7</sup> The GCF Repo<sup>®</sup> Service enables dealers to trade general collateral repos, based on rate, term, and underlying product, throughout the day without requiring intraday, trade-for-trade settlement on a Deliver-versus-Payment (“DVP”) basis. The GCF Repo Service is governed primarily by Rule 20.

<sup>8</sup> At the time of the EUIC approval, the GCF Repo Service was operating on an inter-clearing bank basis, meaning that GCF Repo participants who cleared at different GCF Clearing Agent Banks could enter into GCF Repo Transactions. The GCF Repo Service now operates on an intra-clearing bank basis. See Securities Exchange Act Release No. 78206 (June 30, 2016), 81 FR 44388 (July 7, 2016) (SR-FICC-2016-002).

<sup>9</sup> All times herein are Eastern Time.

<sup>10</sup> See Securities Exchange Act Release Nos. 83362 (June 1, 2018), 83 FR 26514 (June 7, 2018) (SR-FICC-2018-001) and 83223 (May 11, 2018), 83 FR 23020 (May 17, 2018) (SR-FICC-2018-801) (“2018 Filing”).

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*



## (2) Change the Treatment of Short-Term Treasuries

The QRM Methodology Document describes the current GSD margin methodology with respect to Short-Term Treasuries. The current GSD margin methodology does not have any special treatment for Short-Term Treasuries. Short-Term Treasuries are margined as part of the entire portfolio using the sensitivity VaR Charge methodology, and a haircut-based methodology is used as a backup for Short-Term Treasuries where sensitivity analytics data<sup>15</sup> is not available. Specifically, Short-Term Treasuries that do not have sensitivity analytics data are subject to a single haircut rate calibrated to the volatility of the Bloomberg/Barclays Index of Treasury securities with remaining time-to-maturities equal to or less than a year. Currently, the one-month Treasury bills and the nine-month Treasury bills would be margined using the same haircut rate because, as described above, there is one haircut rate that is calibrated to the volatility of the Bloomberg/Barclays Index of Treasury securities with remaining time-to-maturities equal to or less than a year.

FICC has noted two model performance monitoring concerns with the approach in the current model used to calculate the VaR Charge when it is evaluated at a product level and could manifest in VaR Charge underperformance when the current VaR Charge model is applied to portfolios with a high concentration of Short-Term Treasuries. One concern with the current approach is related to the potentially large impact that market events, such as Federal Reserve policy announcements, supply/demand imbalances in Short-Term Treasuries, inflation shocks, and changes in short-term borrowing rates, can have on the yields of Short-Term Treasuries. The “short-end” of the Treasury yield curve is not usually volatile (*i.e.*, there usually are not large day-to-day changes in short-term interest rates). However, these market events may have a large impact on the yields of Short-Term Treasuries. Using this current approach, the VaR Charge calculated for portfolios with a high concentration of Short-Term Treasuries may not adequately cover this above-described potentially large impact on the “short-end” of the Treasury yield curve.

Another concern with the current approach when it is applied to portfolios with a high concentration of

Short-Term Treasuries is that it may not adequately address the volatility of certain portfolios of Short-Term Treasuries if the composition of those portfolios differs greatly from the composition of the Bloomberg/Barclays Index of Treasury securities described above. This is because the volatility of the yields may differ greatly between different types of Short-Term Treasuries. For example, the volatility of the yields of a three-month Treasury bill differs greatly from that of a one-year Treasury bill. Using one haircut based on the volatility of the Bloomberg/Barclays index may not adequately cover the risk of securities with longer duration maturities in the equal to or less than one-year bucket. The same yield change has a larger impact on those securities with longer remaining maturities. As such, the composition of the Bloomberg/Barclays Index of Treasury securities may not be comparable to the composition of certain portfolios of Short-Term Treasuries. Therefore, using a single haircut rate calibrated to the volatility of one index may not adequately address certain portfolios of Short-Term Treasuries that have a very different composition from the index.

The backtesting results of the current approach, as applied at a product level, for Short-Term Treasuries does not meet FICC’s 99 percent confidence level standard.

As described above, Short-Term Treasuries are margined as part of the entire portfolio using the sensitivity VaR Charge methodology, and a haircut-based methodology is used as a backup for Short-Term Treasuries where sensitivity analytics data is not available. Specifically, Short-Term Treasuries that do not have sensitivity analytics data are subject to a single haircut rate calibrated to the volatility of the Bloomberg/Barclay Index of Treasury securities with remaining time-to-maturities equal to or less than a year. The current approach does not have a floor assigned to this single haircut rate. To mitigate the vulnerabilities described above with respect to the current approach, FICC is proposing to use the haircut methodology to margin all Short-Term Treasuries (not just for the Short-Term Treasuries without sensitivity analytics data, as is the current case). Furthermore, instead of one haircut bucket for Short-Term Treasuries, FICC would use two different haircut buckets depending on the time to maturity of the Short-Term Treasury security. FICC believes that using two different haircut buckets depending on the time to maturity of the Short-Term Treasury

security would be more targeted and accurate. The first bucket is Treasury securities with remaining time to maturity equal to or less than six months with a haircut floor set at 12.5 basis points. The second bucket is Treasury securities with remaining time to maturity greater than six months but equal to or less than one year with a haircut floor set at 25 basis points. The haircut charges will be applied to the absolute value of the net market value of the Treasury securities in the respective buckets, with no correlation offset against all other Treasury maturity buckets.

FICC is proposing to use one haircut rate for the absolute value of the net market value of Treasury securities with remaining time to maturity equal to or less than six months (with a floor of 12.5 basis points), and another haircut rate for the absolute value of the net market value of Treasury securities with remaining time to maturity greater than six months but equal to or less than one year (with a floor of 25 basis points). With respect to the proposed change, the haircut charges will be applied to the absolute value of the net market value of the Treasury securities in the respective buckets, which is consistent with the current haircut methodology. However, in contrast to the current haircut methodology where correlation offsets are applied against other Treasury maturity buckets, the correlation offset will not be applied in the proposed approach for the two buckets for Short-Term Treasuries.

FICC believes that having these two haircut buckets with the floors would ensure coverage of the risk of at least 25 basis points in yield change for any Short-Term Treasuries that fall within these two buckets and help mitigate the potential exposure arising from market events such as Federal Reserve policy announcements, supply/demand imbalances in Short-Term Treasuries, inflation shocks, and changes in short-term borrowing rates. FICC also believes having the two haircut buckets with floors would help FICC achieve its backtesting standards, which is 99 percent coverage target with 3-days of margin period of risk. As described below, FICC performed an impact study for the period between January 2020 to December 2020, which indicated that if the proposed changes to the treatment of Short-Term Treasuries had been in place, the backtesting coverage ratio for portfolios of Short-Term Treasuries would have increased from approximately 94.9% to 99.4%.

To effectuate these changes, FICC proposes to revise the QRM Methodology Document to describe the

<sup>15</sup> Sensitivity analytics data refers to data that FICC receives from its data vendor, such as the duration and convexity of Treasury securities.



proposed revised GSD margin methodology with respect to Short-Term Treasuries.

### (3) Technical Changes

FICC proposes to make technical changes to the Rules. Specifically, because paragraph (iii) in Section 1b of Rule 4 would be deleted, as described above, FICC is proposing to make conforming technical changes to renumber the subsequent paragraphs.

FICC is also proposing to make technical changes to the QRM Methodology Document. Specifically, FICC is proposing to make clarifying and grammatical changes to a sentence that describes the indices in a haircut used for short TIPS bonds.

### Impact Study

FICC performed an impact study on Members' portfolios for the period beginning January 2, 2020 to December 31, 2020 that showed that the proposed change to eliminate the EUIC would impact a small number of Members, and the total impact to the Clearing Fund would be small. Over the study period, eliminating the EUIC would have affected, on average, nine Members per day, and the average daily margin decrease to GSD's Clearing Fund would have been approximately \$53.3 million per day (0.3% of the average daily Required Fund Deposit requirement of \$21.3 billion).

FICC performed an impact study on Members' portfolios for the period beginning January 2020 through December 2020. At the clearing corporation level, the impact study indicates that if the proposed changes to the treatment of Short-Term Treasuries had been in place, the backtesting coverage ratio for portfolios of Short-Term Treasuries would have increased from approximately 94.9% to 99.4%. Over the study period, the proposed changes to the treatment of Short-Term Treasuries would have affected 93 Members per day on average, and the mean daily margin increases of the VaR Charge for GSD would have been approximately \$160 million per day (0.8% of the average daily VaR Charge of \$19.5 billion).

### Implementation Timeframe

Subject to approval by the Commission, FICC would implement the proposed rule change within 30 days following such approval, and the implementation date would be announced by an Important Notice posted to FICC's website.

### 2. Statutory Basis

FICC believes that this proposal is consistent with the requirements of the Act, and the rules and regulations thereunder applicable to a registered clearing agency. Specifically, FICC believes the proposed changes to the Rules and the QRM Methodology Document described above are consistent with Section 17A(b)(3)(F) of the Act, for the reasons described below.<sup>16</sup>

Section 17A(b)(3)(F) of the Act requires, in part, that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.<sup>17</sup>

The proposed change to eliminate the EUIC as described in Item II(A)1(1) above is designed to assure the safeguarding of securities and funds which are in the custody or control of FICC or for which it is responsible, consistent with Section 17A(b)(3)(F) of the Act.<sup>18</sup> The EUIC was established to reduce the risk of potential under-margining due to the two Cash Substitution situations described above. With the suspension of interbank services in 2016, the risk of potential under-margining due to the second Cash Substitution described above had been eliminated. While the potential for under-margining due to the first Cash Substitution situation described above still exists, FICC now addresses the exposure through the calculation and assessment of an Intraday Supplemental Fund Deposit amount, if necessary, as described above. FICC believes the Intraday Supplemental Fund Deposit is a more accurate way to margin the exposure presented, and therefore FICC believes that the proposed changes described in Item II(A)1(1) above would help better ensure that FICC calculates and collects adequate margin from Members and thereby assure the safeguarding of securities and funds which are in the custody and control of FICC or for which it is responsible, consistent with Section 17A(b)(3)(F) of the Act.<sup>19</sup>

The proposed changes to the QRM Methodology Document, described in Item II(A)1(2) above to revise the current GSD margin methodology with respect to Short-Term Treasuries, are designed to assure the safeguarding of securities and funds which are in the custody or control of FICC or for which it is responsible, consistent with Section

17A(b)(3)(F) of the Act.<sup>20</sup> FICC believes the proposed changes to the current GSD margin methodology with respect to Short-Term Treasuries would help mitigate the vulnerabilities of the current approach when they are applied to portfolios with a high concentration of Short-Term Treasuries. As such, FICC believes that the proposed changes described in Item II(A)1(2) above would help better ensure that FICC calculates and collects adequate margin from Members and thereby assure the safeguarding of securities and funds which are in the custody and control of FICC or for which it is responsible, consistent with Section 17A(b)(3)(F) of the Act.<sup>21</sup>

FICC believes that the proposed technical changes to the QRM Methodology Document described in Item II(A)1(3) above would enhance the clarity of the document for FICC. As the QRM Methodology Document is used by FICC's risk management personnel ("Risk Management") regarding the calculation of margin requirements, it is important for the accurate and smooth functioning of the margining process that Risk Management has a clear description of the calculation of the GSD margin methodology. The proposed changes would promote such understanding by enhancing the clarity of the description. As such, FICC believes that enhancing the clarity of the QRM Methodology Document would assure the safeguarding of securities and funds which are in the custody or control of FICC or for which it is responsible, consistent with Section 17A(b)(3)(F) of the Act.<sup>22</sup>

Rule 17Ad-22(e)(4)(i) under the Act<sup>23</sup> requires a covered clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those exposures arising from its payment, clearing, and settlement processes by maintaining sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence. FICC believes that the proposed changes in Items II(A)1(1) and II(A)1(2) above are consistent with the requirements of Rule 17Ad-22(e)(4)(i) under the Act.<sup>24</sup>

FICC believes the proposed changes described in Item II(A)1(1) above to eliminate the EUIC are consistent with the requirements of Rule 17Ad-

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> 17 CFR 240.17Ad-22(e)(4)(i).

<sup>24</sup> *Id.*

<sup>16</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

22(e)(4)(i) under the Act.<sup>25</sup> This is because FICC believes assessing and charging an Intraday Supplemental Fund Deposit amount, if necessary, is a better and more accurate way to address the potential under-margining due to the first Cash Substitution situation described above than charging the EUIC. The EUIC is charged once a day at 12 p.m., while FICC may charge an Intraday Supplemental Fund Deposit amount, if necessary, throughout the day, based on the hourly information that FICC receives regarding GCF Repo participants' positions. As such, because FICC can continuously assess its exposure and charge additional margin throughout the day with the Intraday Supplemental Fund Deposit rather than at one point in time, the proposed changes described in Item II(A)1(1) would help FICC better measure and monitor its credit exposures to participants. Therefore, FICC believes that the proposed changes described in Item II(A)1(1) above are consistent with the requirements of Rule 17Ad-22(e)(4)(i) under the Act.<sup>26</sup>

The proposed changes described in Item II(A)1(2) above would allow FICC to use the haircut methodology to margin all Short-Term Treasuries (not just for the Short-Term Treasuries without sensitivity analytics data, as is the current case). As described above, FICC would have two haircuts depending on the time to maturity of the Short-Term Treasuries. This proposed approach would address the two vulnerabilities with the current approach when it is applied to portfolios with a high concentration of Short-Term Treasuries as described above and thereby better enable FICC to limit its credit exposures to Members. Therefore, FICC believes the proposed changes described in Item II(A)1(2) above are consistent with the requirements of Rule 17Ad-22(e)(4)(i) under the Act.<sup>27</sup>

Rule 17Ad-22(e)(6)(i) under the Act<sup>28</sup> requires a covered clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to cover, if the covered clearing agency provides central counterparty services, its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, considers, and produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market. FICC believes that the proposed

changes in Items II(A)1(1) and II(A)1(2) above are consistent with the requirements of Rule 17Ad-22(e)(6)(i) under the Act.<sup>29</sup>

Specifically, FICC believes that the proposed changes described in Item II(A)1(1) above to eliminate the EUIC and rely instead on the assessment of an Intraday Supplemental Fund Deposit amount, if necessary, are reasonably designed to cover FICC's credit exposures to its participants because they would better enable FICC to consider and produce margin levels commensurate with the risk and particular attributes of a GCF Repo participant's portfolio. This is because the Intraday Supplemental Fund Deposit amount could be charged throughout the day and would be based on hourly information about such GCF Repo participant's portfolio that FICC receives from The Bank of New York Mellon (unlike the EUIC, which is charged at 12 p.m.). Therefore, FICC believes the proposed changes would allow FICC to continue to produce margin levels commensurate with the risks and particular attributes of each relevant product, portfolio, and market and are consistent with the requirements of Rule 17Ad-22(e)(6)(i) under the Act.<sup>30</sup>

FICC believes the proposed changes described in Item II(A)1(2) above to allow FICC to use the haircut methodology to margin all Short-Term Treasuries are consistent with the requirements of Rule 17Ad-22(e)(6)(i) cited above. FICC believes these proposed changes are reasonably designed to cover FICC's credit exposures to its participants, especially those participants who have a high concentration of Short-Term Treasuries in their portfolios because, as described above, this proposed approach would address two vulnerabilities associated with the current approach when it is applied to portfolios with a high concentration of Short-Term Treasuries. Therefore, FICC believes the proposed changes would better ensure that FICC produces margin levels commensurate with the risk and particular attributes of each relevant product, portfolio, and market, and are consistent with the requirements of Rule 17Ad-22(e)(6)(i) under the Act.<sup>31</sup>

*(B) Clearing Agency's Statement on Burden on Competition*

FICC believes that the proposed changes described in Item II(A)1(1) above would not have an impact on

competition. This is because Members are currently being assessed an Intraday Supplemental Fund Deposit regardless of the EUIC. The assessment of the Intraday Supplemental Fund Deposit is independent of the EUIC. As such, FICC believes the proposed change to eliminate the EUIC would result in a margin reduction; FICC believes the amount of the margin reduction would be nominal.

FICC believes that the proposed changes described in Item II(A)1(2) above may have an impact on competition because these changes could result in certain Members being assessed a higher margin than they would have been assessed with the current GSD margin methodology for Short-Term Treasuries. Specifically, Members that have a high concentration of directional Short-Term Treasuries in their portfolios would be assessed a higher margin than they would have been assessed with the current GSD margin methodology for Short-Term Treasuries. FICC believes the proposed change could burden competition by potentially increasing these Members' operating costs. Regardless of whether such burden on competition could be deemed significant, FICC believes that any related burden on competition would be necessary and appropriate, as permitted by Section 17A(b)(3)(I) of the Act, for the reasons described below.<sup>32</sup>

FICC believes any burden on competition that may be created would be necessary in furtherance of the purposes of the Act<sup>33</sup> because the proposed changes would mitigate vulnerabilities that have been identified with respect to the current GSD margin methodology for Short-Term Treasuries. In addition, FICC believes that with these proposed changes, the margining would better reflect the risk presented by the Members' specific portfolios. FICC believes any burden on competition that may be created would be appropriate in furtherance of the purposes of the Act<sup>34</sup> because they have been designed to assure the safeguarding of securities and funds which are in the custody or control of FICC or for which it is responsible, consistent with Section 17A(b)(3)(F) of the Act.<sup>35</sup> As described above, these proposed changes would help ensure that FICC calculates and collects adequate margin from Members, and all Short-Term Treasuries would continue

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> 17 CFR 240.17Ad-22(e)(6)(i).

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> 15 U.S.C. 78q-1(b)(3)(I).

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> 15 U.S.C. 78q-1(b)(3)(F).

to be subject to the GSD margin methodology.

FICC does not believe that the proposed changes described in Item II(A)1(3) above to make technical changes to the Rules would have any impact on competition because these proposed changes would better ensure that the Rules remain clear and accurate, and would facilitate Members' understanding of the Rules and their obligations thereunder. Having transparent, accessible, clear, and accurate provisions in the Rules would improve the readability and clarity of the Rules regarding fees that Members would incur by participating in GSD. These proposed changes would apply equally to all Members and would not affect Members' rights and obligations.

In addition, FICC does not believe that the proposed changes described in Item II(A)1(3) above to make technical changes to the QRM Methodology Document would have any impact on competition because these proposed changes would enhance the clarity and accuracy of the QRM Methodology Document and would not affect the substantive rights of Members.

*(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

FICC has not received or solicited any written comments relating to this proposal. If any written comments are received, they will be publicly filed as an Exhibit 2 to this filing, as required by Form 19b-4 and the General Instructions thereto. Persons submitting comments are cautioned that, according to Section IV (Solicitation of Comments) of the Exhibit 1A in the General Instructions to Form 19b-4, the Commission does not edit personal identifying information from comment submissions. Commenters should submit only information that they wish to make available publicly, including their name, email address, and any other identifying information.

All prospective commenters should follow the Commission's instructions on how to submit comments, available at <https://www.sec.gov/regulatory-actions/how-to-submit-comments>. General questions regarding the rule filing process or logistical questions regarding this filing should be directed to the Main Office of the Commission's Division of Trading and Markets at [tradingandmarkets@sec.gov](mailto:tradingandmarkets@sec.gov) or 202-551-5777. FICC reserves the right to not respond to any comments received.

### III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) By order approve or disapprove such proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

#### *Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-FICC-2021-007 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549.
- All submissions should refer to File Number SR-FICC-2021-007. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the

filing also will be available for inspection and copying at the principal office of FICC and on DTCC's website (<http://dtcc.com/legal/sec-rule-filings.aspx>). All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-FICC-2021-007 and should be submitted on or before September 21, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>36</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2021-18678 Filed 8-30-21; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-92755; File No. SR-BOX-2021-18]

### Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend IM-7240-1

August 25, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on August 13, 2021, BOX Exchange LLC (the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend IM-7240-1. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's internet website at <http://boxoptions.com>.

<sup>36</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

#### 1. Purpose

The purpose of the proposed rule change is to amend IM-7240-1. In May 2018, the Securities and Exchange Commission ("SEC") noticed for immediate effectiveness BOX's filing to adopt protections for Complex Orders.<sup>3</sup> As background, the Exchange implemented its Debit/Credit Check which helps prevent the execution of Complex Orders at erroneous prices.<sup>4</sup> Specifically, the system will reject a Complex Limit Order for a credit strategy with a net debit price or a Complex Limit Order for a debit strategy with a net credit price. The Debit/Credit Check mechanism is designed to value strategies using options pricing theory. At its simplest, options pricing theory refers to estimating the fair value of an options contract. Pricing models take into account variables such as current market price, strike price, and time to expiration. All else equal, longer-dated options are more valuable because of their greater time to expiration. Additionally, holding everything constant, including expiration date, a put option with a higher strike price will be more valuable than a put option with a lower strike price because the higher strike price allows the holder to sell the underlying security at a higher price. Conversely, a call option with a lower strike price is more expensive than a call option with a higher strike price because the lower strike price allows the holder to buy the underlying security at a lower price. Taking these principles into account, the Exchange designed the Debit/Credit Check as a way to identify strategies as credit or

debit and only accept appropriate prices based on that determination.

The Exchange notes that it included text in its Debit/Credit Check rule that does not completely reflect how the price protection mechanism functions.<sup>5</sup> In particular, IM-7240-1(a)(1) provides that "the trading system will attempt to identify a strategy as a debit or credit based on the potential profit or loss of the Complex Order. The system first groups the legs of a Complex Order by expiration date. The system then calculates the potential profit or loss of each group for a range of price levels of the underlying security. Specifically, the system calculates the profit or loss for each group at price levels equal to the strike price of each leg in the group." As such, the rule as it is currently reads, suggests that the system only calculates the profit or loss for each group of price levels equal to the strike price of each leg in the group for a particular strategy.

Through internal review, the Exchange came to the conclusion that the system's Debit/Credit Check does not only utilize price levels equal to the strike price of each leg in the groups of a Complex Order, but instead employs a broader range of prices for the underlying security to make a more accurate determination as to whether a particular strategy is a debit or credit. As such, the Exchange is proposing to delete the following language from the rule text: "Specifically, the system calculates the profit or loss for each group at price levels equal to the strike price of each leg in the group." The Exchange believes this removes the contradiction within its current rule text and accurately reflects the current operation of its Debit/Credit Check mechanism by stating that the system will calculate a debit or credit strategy by using a "range of price levels."

The following example illustrates the situation that the Exchange is remedying with this proposed rule change.

#### Example

Assume a Complex Order to buy 2 JAN 2990 puts and sell 1 JAN 3000 put. Evaluating the strategy at only the strike prices (*i.e.*, 2990 and 3000) would yield a result that the strategy is a credit strategy and therefore the system should not accept net debit prices. This is because if the underlying security had a price of 2990 or 3000 the potential profit or loss for the strategy would be:

- When the price of the underlying security is 2990, the first leg (buy 2 JAN 2990 puts) would yield an estimated

profit or loss of \$0 (*i.e.*, break-even) and the second leg (sell 1 JAN 3000 put) would yield an estimated loss of \$10.

- Alternatively, when the price of the underlying security is 3000, the first leg would yield an estimated profit or loss of \$0, and the second leg would yield an estimated profit or loss of \$0.

If the system only evaluated underlying prices equal to the strike prices, then the profit or loss for the group would be break-even or loss because when the underlying price is 2990 the strategy has a potential loss of \$10 and when the underlying price is 3000, the potential profit or loss is break-even. Therefore, the system would consider the strategy a credit strategy and reject any net debit prices.<sup>6</sup> However, when you consider a wider range of prices for the underlying security, specifically those that are less than 2990 you conclude that the strategy has a tendency to be a debit strategy when the underlying price is less than 2990 and, in turn, net debit prices should be accepted for the strategy. As such, the strategy is neither a credit nor debit strategy and any price should be accepted.<sup>7</sup> To illustrate this, using an underlying price of 2970, the system would evaluate the strategy as follows:

- The first leg would yield an estimated profit of \$40, and the second leg would yield an estimated loss of \$30.
- This would yield a net profit of \$10 for the strategy meaning it is a debit strategy at this underlying price.<sup>8</sup>

This means that that depending on the underlying security price the strategy may be a credit or debit strategy so the system should accept credit and debit prices for the strategy.

#### 2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,<sup>9</sup> in general, and Section 6(b)(5) of the Act,<sup>10</sup> in particular, the Exchange believes that the proposed rule change will remove impediments to and perfect the mechanisms of a free and open market by clarifying the operation of the Debit/Credit Check for Complex Orders, which would assist Participants in calibrating their systems with the Exchange's, and thereby enable Participants to make full use of the price protection mechanisms offered by the Exchange. The Exchange believes this proposal removes a potential

<sup>3</sup> See Securities Exchange Release No. 34-83163 (May 3, 2018), 83 FR 21320 (May 9, 2018) (SR-BOX-2018-13 Noticed for Immediate Effectiveness).

<sup>4</sup> IM-7240-1(a).

<sup>5</sup> BOX IM-7240-1(a) Debit/Credit Check.

<sup>6</sup> See IM-7240-1(a)(1)(ii).

<sup>7</sup> See IM-7240-1(a)(4).

<sup>8</sup> See IM-7240-1(a)(1)(i).

<sup>9</sup> 15 U.S.C. 78f(b).

<sup>10</sup> 15 U.S.C. 78f(b)(5).

impediment to, and would contribute to perfecting, the mechanism for a free and open market and a national market system, and, in general, would protect investors and the public interest.

The Exchange believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market and a national market system by ensuring that market participants can understand the Exchange's rulebook. The Exchange believes that the proposed rule change enables the Exchange to continue to enforce the Exchange's rules. The Exchange does not believe that the proposed change discussed herein alters the application of any rules, or how the trading system currently functions. The proposed change merely clarifies the operation of the Debit/Credit Check for Complex Orders. As such, the proposed rule change will foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national exchange system. Further, the Exchange believes that, by ensuring the rulebook accurately reflects the operation of the Exchange's rules, the proposed rule change reduces potential investor or market participant confusion.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In this regard and as indicated above, the Exchange notes that the proposed changes will not alter the substance or application of any of the Exchange's rules. Therefore, the proposed change will have no impact on competition as it is not designed to address any competitive issues but rather is designed to make clarifying changes to the existing BOX rules.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange has neither solicited nor received comments on the proposed rule change.

### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>11</sup> and Rule

19b-4(f)(6) thereunder.<sup>12</sup> Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>13</sup> and Rule 19b-4(f)(6)(iii) thereunder.<sup>14</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>15</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>16</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange believes the proposed rule change adds clarity to the Exchange's rulebook. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because the proposal revises BOX's rules to more accurately describe the operation of the Debit/Credit Check for Complex Orders, which should help investors understand how BOX's Debit/Credit Check will apply to their orders. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.<sup>17</sup>

At any time within 60 days of the filing of this proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the

<sup>12</sup> 17 CFR 240.19b-4(f)(6).

<sup>13</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>14</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

<sup>15</sup> 17 CFR 240.19b-4(f)(6).

<sup>16</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>17</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

#### *Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-BOX-2021-18 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-BOX-2021-18. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-BOX-2021-18, and should be submitted on or before September 21, 2021.

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>18</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2021-18677 Filed 8-30-21; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-92753; File No. SR-ICC-2021-015]

### Self-Regulatory Organizations; ICE Clear Credit LLC; Order Approving Proposed Rule Change Relating to the ICC Governance Playbook, ICC Risk Management Framework, and ICC Treasury Operations Policies and Procedures

August 25, 2021.

#### I. Introduction

On June 30, 2021, ICE Clear Credit LLC (“ICC”) filed with the Securities and Exchange Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4,<sup>2</sup> a proposed rule change to amend the Governance Playbook, Risk Management Framework, and Treasury Operations Policies and Procedures (“Treasury Policy”) (together, the “Documents”). The proposed rule change was published for comment in the **Federal Register** on July 20, 2021.<sup>3</sup> The Commission did not receive comments regarding the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

#### II. Description of the Proposed Rule Change

The proposed rule change would amend the ICC Governance Playbook, Risk Management Framework, and Treasury Policy to update descriptions of certain internal committees and make other clarification or clean-up changes.<sup>4</sup> ICC maintains the Participant Review Committee (“PRC”) and the Credit Review Subcommittee of the PRC (“CRS”) (together, the “Committees”), which are internal committees that

assist in fulfilling counterparty review responsibilities with respect to ICC’s Clearing Participants (“CPs”) and financial service providers (“FSPs”). The proposed changes would amend descriptions related to membership composition, meeting frequency, and responsibilities of the Committees in the Documents to reflect recent changes to the Committees’ charters.<sup>5</sup>

##### A. Governance Playbook

The proposed rule change would amend Section IV of the Governance Playbook (Committees) to (i) simplify the description of the membership composition of the PRC by eliminating unnecessary prefatory language and (ii) add the ICC Risk Oversight Officer as a member. The proposed rule change would also amend the description of the CRS to remove the authority to approve FSPs and specify that the CRS has an advisory role and may make recommendations to the PRC with respect to matters of creditworthiness of CPs and creditworthiness and performance of FSPs. These changes would place FSP approval authority with the PRC and have its subcommittee, the CRS, assist it in fulfilling its counterparty review and approval responsibilities.

The proposed changes would also update the membership composition of the CRS to include the Risk Oversight Officer (similar to the PRC), remove the ICC Risk Management representative as a voting member of the CRS, and state that Risk Management representatives will participate as non-voting members and present materials to allow the CRS to perform its responsibilities and duties. These changes would thus change Risk Management’s role at the subcommittee level.

The proposed rule change would also make a grammatical edit to refer to “financial services providers” as “financial service providers” in the description of the PRC and throughout the document.

##### B. Risk Management Framework

The proposed rule change would amend Section II of the Risk Management Framework (Governance and Organization) to update a chart that details the governance and committee structure at ICC. The updated chart would indicate the current practice that the Intercontinental Exchange, Inc. (“ICE, Inc.”) Enterprise Risk Management Department (“ERM”) reports to the Board and corrects a typographical error to replace the “BCP

Oversight Committee” with the “BCP & DR Oversight Committee.”

In Section II.A (Committees), the proposed changes would clarify current practice that, in addition to the overall Risk Management Framework and its associated policies and procedures being subject to Risk Committee review on at least an annual basis, the policies and procedures that comprise ICC’s overall risk management framework are further subject to full Board review and approval at least annually.

The proposal would also make a grammatical edit to refer to “financial services providers” as “financial service providers” and add a footnote to specify that the types of entities included as FSPs are those to which ICC has actual or potential credit exposure, such as settlement banks, custodians, and other entities. Additionally, the proposal would specify that the PRC meets at least quarterly and more frequently as needed.

The proposed changes would distinguish PRC and CRS responsibilities with respect to FSPs. The changes remove the authority from the CRS to approve FSPs and specify that it has only an advisory role, which is similar to its role in monitoring CPs’ ongoing compliance with the standards and requirements of membership. The changes note that the PRC is responsible for overseeing the assessments and ultimate approval of FSPs. The CRS, as a subcommittee of the PRC, is responsible for assessing the creditworthiness and performance of would-be FSPs by conducting initial due diligence, performing ongoing credit monitoring of FSPs, and then making recommendations to the PRC for its approval.

Finally, the proposed rule change would amend Appendix 1 to the document to update language (consistent with the remainder of the document) related to the membership composition of the PRC, including the addition of the President, Chief Operating Officer, and Risk Oversight Officer as members of the PRC, as well as to clarify current practice that the PRC would meet at least quarterly, and more frequently as needed.

##### C. Treasury Policy

To reflect the CRS’s new advisory role, the proposed rule change would amend Section IV (Cash Settlement) of the Treasury Policy by removing the required approval of the CRS before ICC may begin using a bank’s services and replacing it with the required approval of the PRC. Consistent with the CRS’s advisory role as a subcommittee, Section IV would be further amended to

<sup>18</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change Relating to the ICC Governance Playbook, ICC Risk Management Framework, and ICC Treasury Operations Policies and Procedures; Exchange Act Release No. 92402 (July 14, 2021); 86 FR 38370 (July 20, 2021) (SR-ICC-2021-015) (“Notice”).

<sup>4</sup> Capitalized terms not otherwise defined herein have the meanings assigned to them in the ICC Rules, as applicable.

<sup>5</sup> The description of the proposed rule change is excerpted substantially from the Notice.

indicate that the CRS would be authorized to make recommendations to the PRC regarding approval of the bank prior to accepting such services.

### III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization.<sup>6</sup> For the reasons given below, the Commission finds that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act<sup>7</sup> and Rules 17Ad-22(e)(2)(i) and (v).<sup>8</sup>

#### A. Consistency With Section 17A(b)(3)(F) of the Act

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of ICC be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, as well as to assure the safeguarding of securities and funds which are in the custody or control of ICC or for which it is responsible.<sup>9</sup> As discussed above, the proposed rule change would change the roles of the CRS and PRC internal committees in approving financial services providers and making recommendations with respect to matters of creditworthiness of CPs and the creditworthiness and performance of FSPs, with FSP approval being reserved for the PRC. The proposed changes also add the Risk Oversight Officer to both committees and remove representatives from Risk Management from voting participation in the CRS. The Commission believes that changing the roles of the internal committees in this way would enhance ICC's ability to efficiently manage the risks associated with assessment and approval of CP and FSP counterparties by centering decision making and support amongst distinct committees. Further, the Commission believes that by changing voting representation in the CRS, the proposed changes would support its changed support role by clearly specifying how participation on the CRS works. The Commission believes that these changes would thus enhance ICC's ability to maintain the appropriate financial resources necessary for the

prompt and accurate clearance and settlement of securities transactions and the safeguarding of securities and funds which are in the custody or control of ICC or for which it is responsible.

The Commission also believes that clarifying current practices related to the reporting line for the ERM, the frequency that the PRC meets, and the frequency with which the review and approval process of the policies and procedures that comprise ICC's overall risk management framework occurs, strengthens the Documents by ensuring that users are aware of reporting lines and when policies and procedures should be reviewed and approved. The Commission believes that this in turn enhances ICC's ability to promptly and accurately settle transactions and safeguard funds and securities by ensuring regular Document review intervals. Similarly, the grammatical changes noted above enhance the overall clarity of the Documents.

For the reasons stated above, the Commission therefore believes that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act.

#### B. Consistency With Rule 17Ad-22(e)(2)(i) and (v)

Rules 17Ad-22(e)(2)(i) and (v) requires each covered clearing agency to establish, implement, maintain, and enforce written policies and procedures reasonably designed to, as applicable, provide for governance arrangements that are clear and transparent and specify clear and direct lines of responsibility.<sup>10</sup>

As described above, the proposed rule changes would revise the specific role of the PRC and CRS regarding counterparty review and approval by making the PRC solely responsible for approval and oversight of FSPs and placing the CRS in a supporting position to make recommendations to the PRC after assessing and monitoring counterparties. The proposed changes also change the membership composition of the CRS to include the Risk Oversight Officer and remove the ICC Risk Management representative as a voting member while continuing to present materials to allow the CRS to perform its responsibilities and duties.

The Commission believes that by differentiating the responsibilities of the various committees, subcommittees, and their participants as noted above, these proposed changes provide for clear and transparent governance arrangements and specify clear and direct lines of responsibility to those serving on those

committees and utilizing the Documents.

The proposed changes would also revise a governance chart in the Documents to clarify that the ERM reports to the Board of ICC, which the Commission believes provides transparent governance and specify clear and direct lines of responsibility between the ERM and the Board.

Lastly, by clarifying the review and approval process of the policies and procedures that comprise ICC's overall risk management framework, which consists of review by the Risk Committee and review and approval by the Board at least annually, the proposed rule change helps ensure that the risk management policies and procedures are subject to clear governance and specific direct lines of responsibility.

For the reasons stated above, the Commission believes the proposed rule changes are consistent with Rules 17Ad-22(e)(2)(i) and (v).<sup>11</sup>

### IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act, and in particular, with the requirements of Section 17A(b)(3)(F) of the Act<sup>12</sup> and Rules 17Ad-22(e)(2)(i) and (v).<sup>13</sup>

*It is therefore ordered* pursuant to Section 19(b)(2) of the Act<sup>14</sup> that the proposed rule change (SR-ICC-2021-015), be, and hereby is, approved.<sup>15</sup>

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>16</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2021-18675 Filed 8-30-21; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270-216; OMB Control No. 3235-0243]

### Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services,

<sup>11</sup> *Id.*

<sup>12</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>13</sup> 17 CFR 240.17Ad-22(e)(2)(i) and (v).

<sup>14</sup> 15 U.S.C. 78s(b)(2).

<sup>15</sup> In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>16</sup> 17 CFR 200.30-3(a)(12).

<sup>6</sup> 15 U.S.C. 78s(b)(2)(C).

<sup>7</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>8</sup> 17 CFR 240.17Ad-22(e)(2)(i) and (v).

<sup>9</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>10</sup> 17 CFR 240.17Ad-22(e)(2)(i) and (v).



100 F Street NE, Washington, DC  
20549-2736.

Extension: Rule 206(3)-2

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the "Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 206(3)-2, (17 CFR 275.206(3)-2) which is entitled "Agency Cross Transactions for Advisory Clients," permits investment advisers to comply with section 206(3) of the Investment Advisers Act of 1940 (the "Act") (15 U.S.C. 80b-6(3)) by obtaining a client's blanket consent to enter into agency cross transactions (*i.e.*, a transaction in which an adviser acts as a broker to both the advisory client and the opposite party to the transaction), provided that certain disclosures are made to the client. Rule 206(3)-2 applies to all registered investment advisers. In relying on the rule, investment advisers must provide certain disclosures to their clients. Advisory clients can use the disclosures to monitor agency cross transactions that affect their advisory account. The Commission also uses the information required by Rule 206(3)-2 in connection with its investment adviser inspection program to ensure that advisers are in compliance with the rule. Without the information collected under the rule, advisory clients would not have information necessary for monitoring their adviser's handling of their accounts and the Commission would be less efficient and effective in its inspection program.

The information requirements of the rule consist of the following: (1) Prior to obtaining the client's consent appropriate disclosure must be made to the client as to the practice of, and the conflicts of interest involved in, agency cross transactions; (2) at or before the completion of any such transaction the client must be furnished with a written confirmation containing specified information and offering to furnish upon request certain additional information; and (3) at least annually, the client must be furnished with a written statement or summary as to the total number of transactions during the period covered by the consent and the total amount of commissions received by the adviser or its affiliated broker-dealer attributable to such transactions.

The Commission estimates that approximately 378 respondents use the

rule annually, necessitating about 50 responses per respondent each year, for a total of 18,900 responses. Each response requires an estimated 0.5 hours, for a total of 9,450 hours. The estimated average burden hours are made solely for the purposes of the Paperwork Reduction Act and are not derived from a comprehensive or representative survey or study of the cost of Commission rules and forms.

This collection of information is found at (17 CFR 275.206(3)-2) and is necessary in order for the investment adviser to obtain the benefits of Rule 206(3)-2. The collection of information requirements under the rule is mandatory. Information subject to the disclosure requirements of Rule 206(3)-2 does not require submission to the Commission; and, accordingly, the disclosure pursuant to the rule is not kept confidential. Commission-registered investment advisers are required to maintain and preserve certain information required under Rule 206(3)-2 for five (5) years. The long-term retention of these records is necessary for the Commission's inspection program to ascertain compliance with the Advisers Act.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid control number.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within sixty 60 days of this publication.

Please direct your written comments to David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, C/O Cynthia Roscoe, 100 F Street NE, Washington, DC 20549; or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

Dated: August 25, 2021.

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2021-18696 Filed 8-30-21; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-92751; File No. SR-NASDAQ-2021-054]

### Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change To Modify Listing Rule IM-5101-2 To Permit an Acquisition Company To Contribute a Portion of Its Deposit Account to Another Entity in a Spin-off or Similar Corporate Transaction

August 25, 2021.

On June 24, 2021, The Nasdaq Stock Market LLC ("Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to modify Listing Rule IM-5101-2 to permit an acquisition company to contribute a portion of the amount held in its deposit account to a deposit account of a new acquisition company in a spin-off or similar corporate transaction. The proposed rule change was published for comment in the **Federal Register** on July 13, 2021.<sup>3</sup>

Section 19(b)(2) of the Act<sup>4</sup> provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is August 27, 2021.

The Commission is extending the 45-day time period for Commission action on the proposed rule change. The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, pursuant to Section 19(b)(2) of the Act,<sup>5</sup> the Commission designates October 11, 2021 as the date

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 92344 (July 7, 2021), 86 FR 36841.

<sup>4</sup> 15 U.S.C. 78s(b)(2).

<sup>5</sup> *Id.*



by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rulechange (File No. SR-NASDAQ-2021-054).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>6</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2021-18673 Filed 8-30-21; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-92749; File No. SR-FICC-2021-004]

### Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Designation of Longer Period for Commission Action on Proposed Rule Change Relating to Confidential Information, Market Disruption Events, Systems Disconnect, and Other Changes

August 25, 2021.

#### I. Introduction

On June 25, 2021, Fixed Income Clearing Corporation (“FICC”) filed with the Securities and Exchange Commission (“Commission”) proposed rule change SR-FICC-2021-004 (the “Proposed Rule Change”) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder<sup>2</sup> to amend FICC’s rules relating to confidentiality requirements, market disruption events, systems disconnect, and other changes. The Proposed Rule Change was published for comment in the **Federal Register** on July 13, 2021,<sup>3</sup> and the Commission received a comment, which addresses issues that also appear in this Proposed Rule Change.<sup>4</sup>

Section 19(b)(2) of the Act<sup>5</sup> provides that within 45 days of the publication of

notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for the Proposed Rule Change is effectively Friday, August 27, 2021.

The Commission is extending the 45-day review period for Commission action on the Proposed Rule Change. In order to provide the Commission with sufficient time to consider the Proposed Rule Change, the Commission finds that it is appropriate to designate a longer period within which to take action on the Proposed Rule Change.

Accordingly, pursuant to Section 19(b)(2) of the Act<sup>6</sup> and for the reasons stated above, the Commission designates Friday, October 8, 2021, as the date by which the Commission shall either approve, disapprove, or institute proceedings to determine whether to disapprove the Proposed Rule Change (File No. SR-FICC-2021-004).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>7</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2021-18671 Filed 8-30-21; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270-269; OMB Control No. 3235-0276]

### Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736.

Extension: Rule 6c-7

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the “Commission”) is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection

of information to the Office of Management and Budget for extension and approval.

Rule 6c-7 (17 CFR 270.6c-7) under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*) (“1940 Act”) provides exemption from certain provisions of Sections 22(e) and 27 of the 1940 Act for registered separate accounts offering variable annuity contracts to certain employees of Texas institutions of higher education participating in the Texas Optional Retirement Program. There are approximately 142 registrants governed by Rule 6c-7. The burden of compliance with Rule 6c-7, in connection with the registrants obtaining from a purchaser, prior to or at the time of purchase, a signed document acknowledging the restrictions on redeem ability imposed by Texas law, is estimated to be approximately 3 minutes of professional time per response for each of approximately 6,500 purchasers annually (at an estimated \$72 per hour),<sup>1</sup> for a total annual burden of 325 hours (at a total annual cost of \$23,400).

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules or forms. The Commission does not include in the estimate of average burden hours the time preparing registration statements and sales literature disclosure regarding the restrictions on redeem ability imposed by Texas law. The estimate of burden hours for completing the relevant registration statements are reported on the separate PRA submissions for those statements. (See the separate PRA submissions for Form N-3 (17 CFR 274.11b) and Form N-4 (17 CFR 274.11c).)

The Commission requests written comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the

<sup>1</sup> \$72/hour figure for a Compliance Clerk is based on the Commission’s estimates concerning the allocation of burden hours and the relevant wage rates from the Commission’s consultations with industry representatives and on salary information for the securities industry compiled by the Securities Industry and Financial Markets Association’s Office Salaries in the Securities Industry 2013. The estimated wage figures are modified by Commission staff to account for an 1800-hour work-year and multiplied by 2.93 to account for bonuses, firm size, employee benefits, overhead, and adjusted to account for the effects of inflation. See Securities Industry and Financial Markets Association, Report on Management & Professional Earnings in the Securities Industry 2013.

<sup>6</sup> 17 CFR 200.30-3(a)(31).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Securities Exchange Act Release No. 92341 (June 25, 2021), 86 FR 36799 (July 13, 2021) (File No. SR-FICC-2021-004) (“Notice of Filing”).

<sup>4</sup> Specifically, the Commission received a comment letter on a proposed rule change filed by FICC’s affiliate, the Depository Trust Company (“DTC”), regarding parallel changes to DTC’s Rules. See Securities Exchange Act Release No. 92342 (June 25, 2021), 86 FR 36833 (July 13, 2021) (File No. SR-DTC-2021-011). The comment letter is available on the Commission’s website at <https://www.sec.gov/comments/sr-dtc-2021-011/srdtc2021011.htm>. Because the comment addresses issues that also appear in this Proposed Rule Change, the Commission will consider it in connection with FICC’s proposal as well.

<sup>5</sup> 15 U.S.C. 78s(b)(2).

<sup>6</sup> *Id.*

<sup>7</sup> 17 CFR 200.30-3(a)(31).

agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, C/O Cynthia Roscoe, 100 F Street NE, Washington, DC 20549; or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

Dated: August 25, 2021.

**Jill M. Peterson,**  
Assistant Secretary.

[FR Doc. 2021-18698 Filed 8-30-21; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-92752; File No. SR-LTSE-2021-04]

### Self-Regulatory Organizations; Long-Term Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Director "Business Relationships" Provision and Definition of "Family Member" for Purposes of LTSE Rule 14.405(a)(2) and Supplementary Material .01 (Definition of Independence)

August 25, 2021.

Pursuant to Section 19(b)(1) <sup>1</sup> of the Securities Exchange Act of 1934 (the "Act") <sup>2</sup> and Rule 19b-4 thereunder, <sup>3</sup> notice is hereby given that on August 19, 2021, Long-Term Stock Exchange, Inc. ("LTSE" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

LTSE proposes to amend LTSE Rule 14.405(a)(2) and Supplementary

Material .01 (Definition of Independence) under LTSE Rule 14.405(a) ("Supplementary Material") to (i) adopt provisions conforming LTSE's independence standards with respect to listed company ("Company") <sup>4</sup> directors' "business relationships" with the corresponding standards of the New York Stock Exchange ("NYSE") Rule 303.A.02(b)(v) and relevant parts of the related NYSE Commentary and Disclosure Requirement for NYSE-listed Companies seeking to dually list on LTSE, and (ii) amend the definition of "Family Member" solely for purposes of director independence determinations under LTSE Rule 14.405(a)(2). LTSE has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act, <sup>5</sup> and Rule 19b4(f)(6) thereunder, <sup>6</sup> which renders the proposed rule change effective upon filing with the Commission.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

##### A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange proposes to amend Rule 14.405(a)(2) and related Supplementary Material to adopt a provision conforming LTSE's independence standards with respect to directors' business relationships with the corresponding standard of NYSE Rule 303.A.02(b)(v) and related Commentary and Disclosure Requirement, in order to accommodate NYSE-listed Companies seeking to dually list <sup>7</sup> their securities on LTSE. The Exchange also proposes to amend the definition of "Family Member" solely for purposes of director

independence under LTSE Rule 14.405(a)(2) <sup>8</sup> to conform it to the corresponding definitions of the NYSE <sup>9</sup> and the Nasdaq Stock Market LLC ("Nasdaq"). <sup>10</sup>

LTSE rules require Companies to meet certain standards related to director independence, including that a majority of the board of the directors of the Company be independent directors, <sup>11</sup> and that the Company's audit, compensation, and nominating <sup>12</sup> committees be comprised solely of independent directors. <sup>13</sup> LTSE Rule 14.405(a)(2) defines "Independent Director" as "a person other than an Executive Officer or employee of the Company or any other individual having a relationship which, in the opinion of the Company's board of directors, would interfere with the exercise of independent judgment in carrying out the responsibilities of a director."

LTSE Rule 14.405(a)(2) also provides a list of certain relationships that preclude a board finding of director independence <sup>14</sup> (the "Bright-Line Independence Tests"), including a director who is, or has a Family Member who is, a partner in, or a controlling Shareholder or an Executive Officer of, any organization to which the Company made, or from which the Company received, payments for property or services in the current or any of the past three fiscal years that exceed 5% of the recipient's (*i.e.*, that of the organization or the Company) consolidated gross revenues for that year, or \$200,000, whichever is more (with certain exceptions). <sup>15</sup> This rule is referred to as

<sup>8</sup> This definition of Family Member is not applicable to LTSE Rule 5.110 (Supervision), which pertains to Member supervision and aligns with a corresponding FINRA rule.

<sup>9</sup> See General Commentary to Section 303A.02(b) of NYSE Listed Company Manual (defining "immediate family member").

<sup>10</sup> See Nasdaq Rule 5605(a)(2) (defining "Family Member").

<sup>11</sup> LTSE Rule 14.405(b)(1).

<sup>12</sup> If the Company does not have a nominating committee, under LTSE Rule 14.405(e), nominees for directors must be selected or recommended by independent directors constituting a majority of the board's independent directors in a vote in which only independent directors participate.

<sup>13</sup> See LTSE Rule 14.405(c)(3)(A) (regarding audit committee composition); LTSE Rule 14.405(d)(2)(A) (regarding compensation committee composition); LTSE Rule 14.405(e)(1) (regarding nominating committee composition).

<sup>14</sup> See Supplementary Material, LTSE Rule 14.405(a)(2).01 (noting that "[t]hese objective measures provide transparency to investors and Companies, facilitate uniform application of the rules, and ease administration").

<sup>15</sup> See LTSE Rule 14.405(a)(2)(D) (exceptions to this rule apply for (i) payments arising solely from investments in the Company's securities; or (ii) payments under non-discretionary charitable contribution matching programs).

<sup>4</sup> "Company" means the issuer of a security listed or applying to list on the Exchange. See LTSE Rule 14.002(a)(5).

<sup>5</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>6</sup> 17 CFR 240.19b-4(f)(6).

<sup>7</sup> See LTSE Rule 14.210(a) (permitting a Company to have a class of securities that has been approved for listing on another national securities exchange).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

the “business relationships” provision.<sup>16</sup> Related Supplementary Material provides further guidance to Companies regarding the significance of director independence and application of the independence standards.

The proposed rule change would establish an alternative business relationships provision based on the corresponding provisions of the NYSE Rule 303.A.02(b)(v)<sup>17</sup> and adopt relevant parts of the related NYSE Commentary and Disclosure Requirement, solely applicable to NYSE-listed Companies seeking to dually list on LTSE. While NYSE’s and LTSE’s respective business relationship provisions are similar, the NYSE standard employs different percentages and minimums. Specifically, NYSE uses a threshold of 2% of the recipient’s consolidated gross revenues or \$1 million, whichever is more. In many situations, the NYSE provision will be more restrictive with a threshold of 2% versus 5%. However, at the lowest levels, the LTSE standard is more restrictive with a minimum of \$200,000 versus \$1 million.<sup>18</sup> The Commentary and Disclosure Requirement noted under NYSE Rule 303.A.02(b)(v) clarify application of the rule and call for disclosure of Company contributions to tax exempt organizations in which any independent director serves as an executive officer provided that the same financial thresholds of Rule 303.A.02(b)(v) are met.

As a result of the differences discussed above, a NYSE-listed Company seeking to dually list on LTSE may have to reassess the independence of its directors notwithstanding the fact that the Company is already listed on the NYSE. Differences in comparable listing standards based on the same general principles (*e.g.*, ensuring directors exercise independent judgment) may be burdensome for Companies needing to conduct duplicative analyses of director

independence.<sup>19</sup> To better accommodate dual listings of NYSE-listed companies, the proposed rule change would provide an alternative business relationships provision in a new paragraph (H) to LTSE Rule 14.405(a)(2) substantially identical to NYSE Rule 303.A.02(b)(v) and add relevant parts of NYSE’s related Commentary and Disclosure Requirement to LTSE Supplemental Material, solely for NYSE-listed Companies.

The Exchange is also proposing to amend the definition of “Family Member” solely for purposes of director independence under LTSE Rule 14.405(a)(2) to mean “a person’s spouse, parents, children, siblings, mothers- and fathers-in-law, sons- and daughters-in-law, brothers- and sisters-in-law, and anyone (other than domestic employees) who shares such person’s home.” Under the current LTSE Rule 14.405(a)(2), “Family Member” means “a person’s spouse, parents, children and siblings, whether by blood, marriage or adoption, or anyone residing in such person’s home.”<sup>20</sup> The purpose of this rule change is to exclude domestic employees who share the director’s home (given that the definition is not meant to cover commercial relationships), and stepchildren who do not share the director’s home (in which case, depending on facts and circumstances, such relationships may be attenuated in nature), from the type of relationships that always preclude a board from finding that a director is independent, as described below.<sup>21</sup>

The proposed rule change would also conform LTSE’s definition of a “Family Member” for purposes of Rule 14.405(a)(2) to the corresponding definition of “Family Member” applicable to Companies listed on the NYSE and Nasdaq. Depending on the

facts and circumstances, minor variations<sup>22</sup> between LTSE’s current definition and that of NYSE or Nasdaq could create need for interpretation and require additional independence assessments for NYSE or Nasdaq-primary listed Companies seeking to dually list securities on LTSE or transfer their listing to LTSE. To reduce this additional compliance burden on such Companies, the Exchange’s proposed definition of “Family Member” would be identical to NYSE and Nasdaq’s corresponding definitions for purposes of determining director independence.<sup>23</sup> This revision will not affect the additional independence criteria for audit committee members set forth in LTSE Rule 14.405(c)(2), which incorporate the independence requirements of SEC Rule 10A–3 promulgated under the Act.<sup>24</sup>

Notwithstanding these changes, LTSE notes that Company boards must affirmatively determine that directors do not have relationships that would interfere with the exercise of independent judgment in carrying out the responsibilities of a director pursuant to LTSE rules 14.405(a)(2) and 14.405(a)(2).01. To comply with LTSE’s rules, LTSE will expect the boards of listed Companies to continue to elicit through director questionnaires the information necessary to make independence determinations, which will need to include questions about stepchild relationships. LTSE believes that it is appropriate for the board to review a relationship between a director and a stepchild who does not share a home with the director or a relationship between a director and a domestic employee under such facts and circumstances test. The board’s assessment goes beyond applying the Bright-Line Independence Tests to ensure that any individual serving as an independent director has no relationship that would impair his or her independence.

<sup>16</sup> LTSE’s “business relationships” provision in Rule 14.405(a)(2)(D) is identical to Nasdaq Rule 5605(a)(2)(D).

<sup>17</sup> NYSE Rule 303.A.02(b)(v) precludes situations where “[t]he director is a current employee, or an immediate family member is a current executive officer, of a company that has made payments to, or received payments from, the listed company for property or services in an amount which, in any of the last three fiscal years, exceeds the greater of \$1 million, or 2% of such other company’s consolidated gross revenues.”

<sup>18</sup> In addition, the NYSE standard only covers the prior three fiscal years (not including current year as per the LTSE standard) and does not include Family Members who are partners or controlling shareholders of the subject organization. The LTSE standard uses the term “organizations” instead of “companies” and thus may be interpreted to be broader in scope in that respect.

<sup>19</sup> See Amendment No. 3 to *SR-NASDAQ 2019-049* at 8 (noting that “Nasdaq has heard from its listed companies and their legal counsel that the current situation, where each market has a different definition [of “Family Member”], complicates the preparation by listed companies of director and officer questionnaires that the companies need in order to analyze director independence. In particular, this creates an added and unnecessary burden when a company transfers its listing from one national securities exchange to another. In such case, a director may have already filled out an annual questionnaire based on the prior listing exchange’s definition of a family member, but need[s] to answer additional questions because the definition of the exchange the listing is transferred to is phrased differently”).

<sup>20</sup> See LTSE Rule 14.405(a)(2).

<sup>21</sup> For the avoidance of doubt, a stepchild who shares the same home with a director would continue to be considered a Family Member under the Bright-Line Independence Tests, because the definition of a Family Member will include anyone (other than domestic employees) who shares the director’s home.

<sup>22</sup> For example, the current LTSE definition of “Family Member” in Rule 14.405(a)(2) does not exclude domestic employees residing in the director’s home.

<sup>23</sup> Section 303A.02 of the NYSE Listed Company Manual states that “[a]n ‘immediate family member’ includes a person’s spouse, parents, children, siblings, mothers and fathers-in-law, sons and daughters-in-law, brothers and sisters-in-law, and anyone (other than domestic employees) who shares such person’s home.” The definition of “Family Member” for purposes of Nasdaq Listing Rule 5605(a)(2) was modified to be identical to that of NYSE. See Securities Exchange Act Release No. 88210 (February 13, 2020), 85 FR 9816 (February 20, 2020).

<sup>24</sup> 15 U.S.C. 78f.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>25</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>26</sup> in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Further, the Exchange believes that the proposal is not designed to permit unfair discrimination between issuers or to regulate by virtue of any authority conferred by the Act matters not related to the purposes of the Act or the administration of the Exchange, for the reasons set forth below.

By aligning certain of the Exchange's corporate governance requirements more closely with those of the NYSE and Nasdaq, as explained above, the proposed rule change is designed to remove impediments to and perfect the mechanism of a free and open market. The proposed rule change with respect to director business relationships and the definition of Family Member is consistent with the Act in that it adopts a definition of director independence that has already been approved by the Commission and has been in force for nearly 20 years.<sup>27</sup>

LTSE's current business relationships provision set forth in LTSE Rule 14.405(a)(2)(D) is identical to that of Nasdaq Rule 5605(a)(2)(D). Companies that utilize Nasdaq as their primary listing exchange and seek to dually list on LTSE do not currently have any added compliance burden with respect to this rule. As drafted, the proposed rule change would apply only to NYSE-primary listed Companies seeking to dually list on LTSE and remove their additional compliance burden of having to assess director independence in accordance with disparate Bright-Line Independence Tests regarding director business relationships. A Company seeking a primary listing on LTSE or a

Company with a primary listing exchange other than NYSE would be required to satisfy the current business relationships provision in Rule 14.405(a)(2)(D).

The Exchange also believes that its proposed rule change is fair and not unfairly discriminatory because it alleviates the additional compliance burdens currently faced by NYSE-primary listed Companies that seek to dually list on LTSE. Given that LTSE Rule 14.405(a)(2)(D) currently in effect is identical to the corresponding provision of Nasdaq Rule 5605(a)(2)(D), the proposed rule change brings NYSE-primary listed Companies in parity with Nasdaq-primary listed Companies if they seek to dually list their securities on LTSE.

The proposed rule change with respect to modification of the definition of "Family Member" in LTSE Rule 14.405(a)(2) to conform to the corresponding definition of Nasdaq Rule 5605(a)(2) and NYSE Rule 303.A.02 also alleviates the compliance burden on LTSE dually-listed Companies. In the recent past, the Commission has approved Nasdaq's proposed modification of Rule 5605(a)(2)'s definition of "Family Member" for purposes of director independence determinations.<sup>28</sup> Prior to such modification, the Nasdaq definition in Rule 5605(a)(2) was identical to that of LTSE Rule 14.405(a)(2). Nasdaq also noted in Amendment No. 3 to its related rule filing proposal that its purpose was to alleviate unnecessary burdens posed on listed companies due to differences in phrasing of corresponding rules across exchanges.<sup>29</sup> Specifically, LTSE Rule 14.405(a)(2) includes directors' domestic employees and stepchildren in the definition of "Family Member," as described above, even though based on facts and circumstances, relationships with stepchildren may be attenuated and those with domestic employees are generally commercial in nature. The Commission has previously approved the proposed definition as consistent with Section 6(b)(5) of the Act.<sup>30</sup> As such, LTSE believes that Commission approval of this proposed rule change

would be consistent with its prior decision and promote competition.

LTSE holds that it is important for investors to have confidence that individuals serving as independent directors do not have a relationship with the Company that would impair their independence. The Company's board has a responsibility to make an affirmative determination that no such relationships exist. The proposed rule change furthers the Exchange's objective to support Companies in long-term value creation by removing the need for burdensome and duplicative independence assessments while retaining effective and longstanding mechanisms for ensuring director independence.

### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. These changes are intended to alleviate compliance burdens on dually-listed Companies by conforming LTSE rules with those of two other exchanges in the case of the definition of "Family Member," and one other exchange with respect to the business relationships provision regarding director independence determinations where such Company is seeking to dually list its securities. Thus, the proposed rule change would eliminate requirements that burden issuers without an offsetting benefit in protecting shareholders. As such, these changes are neither intended to, nor expected to, impose any burden on competition.

### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments were neither solicited nor received.

## **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section

<sup>25</sup> See Securities Exchange Act Release No. 88210 (February 13, 2020), 85 FR 9816 (February 20, 2020).

<sup>26</sup> 15 U.S.C. 78f(b)(5).

<sup>27</sup> See Securities Exchange Act Release No. 48745 (November 4, 2003), 68 FR 64154 (November 12, 2003), available at [https://www.sec.gov/rules/sro/34-48745.htm#P83\\_24538](https://www.sec.gov/rules/sro/34-48745.htm#P83_24538) (noting that "the Commission believes that these proposed rule changes, as amended, are reasonable and appropriate and serve the interests of the investing public").

<sup>28</sup> See SR-NASDAQ 2019-049 Amendment No. 3 at 11. Amendment No. 3 replaces and supersedes the original proposal in its entirety and is available at [https://listingcenter.nasdaq.com/assets/rulebook/nasdaq/filings/SR-NASDAQ-2019-049\\_Amendment\\_3.pdf](https://listingcenter.nasdaq.com/assets/rulebook/nasdaq/filings/SR-NASDAQ-2019-049_Amendment_3.pdf).

<sup>29</sup> See Securities Exchange Act Release No. 88210 (February 13, 2020), 85 FR 9816 (February 20, 2020).

19(b)(3)(A)(iii) of the Act<sup>31</sup> and Rule 19b-4(f)(6)(iii) thereunder.<sup>32</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>33</sup> normally does not become operative for 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>34</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative upon filing. The Exchange states that it does not believe that the proposal raises any new or novel issues not previously considered by the Commission in that the provisions at issue have been approved by the Commission and in effect at other exchanges for a considerable period. In addition, the Exchange has represented that it anticipates that its first dual listings will take effect by the end of August 2021 and that the proposed rule change will be helpful for the companies that plan to list on this timeline. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because the proposed rule change does not raise any new or novel issues and is consistent with adopted rules on other exchanges. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.<sup>35</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### *Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-LTSE-2021-04 on the subject line.

##### *Paper Comments*

- *Send paper comments in triplicate to:* Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-LTSE-2021-04. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-LTSE-2021-04 and should be submitted on or before September 21, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>36</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2021-18674 Filed 8-30-21; 8:45 am]

**BILLING CODE 8011-01-P**

#### **SECURITIES AND EXCHANGE COMMISSION**

**[SEC File No. 270-480; OMB Control No. 3235-0537]**

#### **Proposed Collection; Comment Request**

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

*Extension:*  
Regulation S-P

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 ("PRA") (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the existing collection of information provided for in the privacy notice and opt out notice provisions of Regulation S-P—Privacy of Consumer Financial Information (17 CFR part 248, subpart A) under the Securities Exchange Act of 1934 ("Exchange Act") (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget ("OMB") for extension and approval.

The privacy notice and opt out notice provisions of Regulation S-P (the "Rule") implement the privacy notice and opt out notice requirements of Title V of the Gramm-Leach-Bliley Act ("GLBA"), which include the requirement that at the time of establishing a customer relationship with a consumer and not less than annually during the continuation of such relationship, a financial institution shall provide a clear and conspicuous disclosure to such consumer of such financial institution's policies and practices with respect to disclosing nonpublic personal information to affiliates and nonaffiliated third parties ("privacy notice"). Title V of the GLBA also provides that, unless an exception applies, a financial institution may not disclose nonpublic personal information of a consumer to a nonaffiliated third party unless the financial institution clearly and conspicuously discloses to the consumer that such information may be disclosed to such third party; the

<sup>31</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>32</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

<sup>33</sup> 17 CFR 240.19b-4(f)(6).

<sup>34</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>35</sup> For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>36</sup> 17 CFR 200.30-3(a)(12).

consumer is given the opportunity, before the time that such information is initially disclosed, to direct that such information not be disclosed to such third party; and the consumer is given an explanation of how the consumer can exercise that nondisclosure option (“opt out notice”). The Rule applies to broker-dealers, investment advisers registered with the Commission, and investment companies (“covered entities”).

Commission staff estimates that, as of June 30, 2021 the Rule’s information collection burden applies to approximately 21,875 covered entities (approximately 3,560 broker-dealers, 14,381 investment advisers registered with the Commission, and 3,934 investment companies). In view of (a) the minimal recordkeeping burden imposed by the Rule (since the Rule has no recordkeeping requirement and records relating to customer communications already must be made and retained pursuant to other SEC rules); (b) the summary fashion in which information must be provided to customers in the privacy and opt out notices required by the Rule (the model privacy form adopted by the SEC and the other agencies in 2009, designed to serve as both a privacy notice and an opt out notice, is only two pages); (c) the availability to covered entities of the model privacy form and online model privacy form builder; and (d) the experience of covered entities’ staff with the notices, SEC staff estimates that covered entities will each spend an average of approximately 12 hours per year complying with the Rule, for a total of approximately 262,500 annual burden-hours ( $12 \times 21,875 = 262,500$ ). SEC staff understands that the vast majority of covered entities deliver their privacy and opt out notices with other communications such as account opening documents and account statements. Because the other communications are already delivered to consumers, adding a brief privacy and opt out notice should not result in added costs for processing or for postage and materials. Also, privacy and opt out notices may be delivered electronically to consumers who have agreed to electronic communications, which further reduces the costs of delivery. Because SEC staff assumes that most paper copies of privacy and opt out notices are combined with other required mailings, the burden-hour estimates above are based on resources required to integrate the privacy and opt notices into another mailing, rather than on the resources required to create and send a separate mailing. SEC staff estimates that, of the estimated 12

annual burden-hours incurred, approximately 8 hours would be spent by administrative assistants at an hourly rate of \$83, and approximately 4 hours would be spent by internal counsel at an hourly rate of \$428, for a total annual internal cost of compliance of \$2,376 for each of the covered entities ( $8 \times \$83 = \$664$ ;  $4 \times \$428 = \$1,712$ ;  $\$664 + \$1,712 = \$2,376$ ). Hourly cost of compliance estimates for administrative assistant time are derived from the Securities Industry and Financial Markets Association’s *Office Salaries in the Securities Industry 2013*, modified by SEC staff to account for an 1,800-hour work-year and multiplied by 2.93 to account for bonuses, firm size, employee benefits and overhead. Hourly cost of compliance estimates for internal counsel time are derived from the Securities Industry and Financial Markets Association’s *Management & Professional Earnings in the Securities Industry 2013*, modified by SEC staff to account for an 1,800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead. Accordingly, SEC staff estimates that the total annual internal cost of compliance for the estimated 21,875 covered entities subject to the Rule is approximately \$51,975,000 ( $\$2,376 \times 21,875 = \$51,975,000$ ).

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission’s estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE, Washington, DC 20549, or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

Dated: August 25, 2021.

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2021–18699 Filed 8–30–21; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–253; OMB Control No. 3235–026]

### Proposed Collection; Comment Request

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736.

*Extension:*

Rule 23c–1

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (the “Commission”) is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 23c–1(a) under the Investment Company Act (17 CFR 270.23c–1(a)) permits a closed-end fund to repurchase its securities for cash if, in addition to the other requirements set forth in the rule, the following conditions are met: (i) Payment of the purchase price is accompanied or preceded by a written confirmation of the purchase (“written confirmation”); (ii) the asset coverage per unit of the security to be purchased is disclosed to the seller or his agent (“asset coverage disclosure”); and (iii) if the security is a stock, the fund has, within the preceding six months, informed stockholders of its intention to purchase stock (“six month notice”). Commission staff estimates that 56 closed-end funds undertake a total of 224 repurchases annually under rule 23c–1.<sup>1</sup> Staff estimates further that, with respect to each repurchase, each fund spends 2.5 hours to comply with the rule’s written confirmation, asset coverage disclosure and six month notice requirements. Thus, Commission staff estimates the total annual respondent reporting burden is 560

<sup>1</sup> The number of closed-end funds that undertake repurchases annually under rule 23c–1 is based on information provided in response to Item C.7.i of Form N–CEN from January 1, 2020 through December 31, 2020.

hours.<sup>2</sup> Commission staff further estimates that the cost of the hourly burden per repurchase is approximately \$330.50 (one half hour of a compliance attorney's time at \$373 per hour,<sup>3</sup> and two hours of clerical time at \$72 per hour).<sup>4</sup> The total annual cost for all funds is estimated to be \$185,080.<sup>5</sup>

In addition, the fund must file with the Commission a copy of any written solicitation to purchase securities given by or on behalf of the fund to 10 or more persons. The copy must be filed as an exhibit to Form N-CSR (17 CFR 249.331 and 274.128).<sup>6</sup> The burden associated with filing Form N-CSR is addressed in the submission related to that form.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.

Written comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, C/O Cynthia Roscoe, 100 F Street NE, Washington,

<sup>2</sup> This estimate is based on the following calculation: 224 repurchases × 2.5 hours per repurchase = 560 hours.

<sup>3</sup> The \$373/hour figure for a compliance attorney is from SIFMA's Management & Professional Earnings in the Securities Industry 2013, updated for 2021, modified by Commission staff to account for an 1,800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead.

<sup>4</sup> The \$72/hour figure for a compliance clerk is from SIFMA's Office Salaries in the Securities Industry 2013, updated for 2021, modified by Commission staff to account for an 1,800-hour work-year and inflation, and multiplied by 2.93 to account for bonuses, firm size, employee benefits and overhead.

<sup>5</sup> This estimate is based on the following calculation: 560 repurchases × \$330.5 per repurchase = \$185,080.

<sup>6</sup> In addition, Item 9 of Form N-CSR requires closed-end funds to disclose information similar to the information that was required in Form N-23C-1, which was discontinued in 2004.

DC 20549; or send an email to: *PRA\_Mailbox@sec.gov*.

Dated: August 25, 2021.

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2021-18697 Filed 8-30-21; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-92750; File No. SR-NSCC-2021-007]

### Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Designation of Longer Period for Commission Action on Proposed Rule Change Relating to Confidential Information, Market Disruption Events, Systems Disconnect, and Other Changes

August 25, 2021.

#### I. Introduction

On June 25, 2021, National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") proposed rule change SR-NSCC-2021-007 (the "Proposed Rule Change") pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder<sup>2</sup> to amend NSCC's rules relating to confidentiality requirements, market disruption events, systems disconnect, and other changes. The Proposed Rule Change was published for comment in the **Federal Register** on July 13, 2021,<sup>3</sup> and the Commission received a comment, which addresses issues that also appear in this Proposed Rule Change.<sup>4</sup>

Section 19(b)(2) of the Act<sup>5</sup> provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Securities Exchange Act Release No. 92334 (June 25, 2021), 86 FR 36815 (July 13, 2021) (File No. SR-NSCC-2021-007) ("Notice of Filing").

<sup>4</sup> Specifically, the Commission received a comment letter on a proposed rule change filed by NSCC's affiliate, the Depository Trust Company ("DTC"), regarding parallel changes to DTC's Rules. See Securities Exchange Act Release No. 92342 (June 25, 2021), 86 FR 36833 (July 13, 2021) (File No. SR-DTC-2021-011). The comment letter is available on the Commission's website at <https://www.sec.gov/comments/sr-dtc-2021-011/srdtc2021011.htm>. Because the comment addresses issues that also appear in this Proposed Rule Change, the Commission will consider it in connection with NSCC's proposal as well.

<sup>5</sup> 15 U.S.C. 78s(b)(2).

self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for the Proposed Rule Change is effectively Friday, August 27, 2021.

The Commission is extending the 45-day review period for Commission action on the Proposed Rule Change. In order to provide the Commission with sufficient time to consider the Proposed Rule Change, the Commission finds that it is appropriate to designate a longer period within which to take action on the Proposed Rule Change.

Accordingly, pursuant to Section 19(b)(2) of the Act<sup>6</sup> and for the reasons stated above, the Commission designates Friday, October 8, 2021, as the date by which the Commission shall either approve, disapprove, or institute proceedings to determine whether to disapprove the Proposed Rule Change (File No. SR-NSCC-2021-007).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>7</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2021-18672 Filed 8-30-21; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270-233, OMB Control No. 3235-0223]

### Proposed Collection; Comment Request

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736.

*Extension:*

Rule 17f-2

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the "Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 17f-2 (17 CFR 270.17f-2), entitled "Custody of Investments by

<sup>6</sup> *Id.*

<sup>7</sup> 17 CFR 200.30-3(a)(31).



Registered Management Investment Company,” establishes safeguards for arrangements in which a registered management investment company or business development company (“fund”) is deemed to maintain custody of its own assets, such as when the fund maintains its assets in a facility that provides safekeeping but not custodial services.<sup>1</sup> The rule includes four distinct requirements that are an information collection under the Paperwork Reduction Act. First, fund’s directors must prepare a resolution designating not more than five fund officers or responsible employees who may have access to the fund’s assets. Secondly, the fund’s board must vote to approve this resolution. Third, the designated access persons (two or more of whom must act jointly when handling fund assets) must prepare a written notation providing certain information about each deposit or withdrawal of fund assets, and must transmit the notation to another officer or director designated by the directors. Lastly, an independent public accountant must verify the fund’s assets three times each year, and two of those examinations must be unscheduled.<sup>2</sup>

Rule 17f–2’s requirements are designed to safeguard fund assets from loss by requiring certain specific controls when those assets are not placed and maintained in the custody of a bank or other custodian as permitted under section 17(f) of the Investment Company Act of 1940 (15 U.S.C. 80a–17(f)) (“Act”) and the rules thereunder. Specifically, the requirement that directors designate access persons is intended to ensure that directors evaluate the trustworthiness of insiders who handle fund assets. The requirements that access persons act jointly in handling fund assets, prepare a written notation of each transaction, and transmit the notation to another designated person are intended to reduce the risk of misappropriation of fund assets by access persons, and to ensure that adequate records are prepared, reviewed by a responsible third person, and available for examination by the Commission. The

<sup>1</sup> The rule generally requires all assets to be deposited in the safekeeping of a “bank or other company whose functions and physical facilities are supervised by Federal or State authority.”

<sup>2</sup> The accountant must transmit to the Commission promptly after each examination a certificate describing the examination on Form N–17f–2. The preparation and filing of Form N–17f–2, which largely serves as a cover-sheet for the accountant’s certification of their audit, is covered by a separate information collection. The third (scheduled) examination may coincide with the annual verification required for every fund by section 30(g) of the Act (15 U.S.C. 80a–29(g)).

requirement that auditors verify fund assets without notice twice each year is intended to provide an additional deterrent to the misappropriation of fund assets and to detect any irregularities. Less frequent examinations by a fund’s accountants could impair the ability of the Commission’s examination staff to ascertain the fund’s compliance with the rule.

The Commission staff estimates that each fund makes 974 responses and spends an average of 252 hours annually in complying with the rule’s requirements.<sup>3</sup> Commission staff estimates that on an annual basis it takes: (i) 0.5 hours of fund accounting personnel at a total cost of \$111 and 1 hour of fund attorney personnel time at a cost of \$425, for a total of 1.5 hours and a cost of \$536 to draft director resolutions;<sup>4</sup> (ii) 0.5 hours of the fund’s board of directors at a total cost of \$2,385 to adopt the resolution;<sup>5</sup> (iii) 244 hours for the fund’s accounting personnel at a total cost of \$71,102 to prepare written notations of transactions;<sup>6</sup> and (iv) 3 hours for the fund’s controller or administrator at a total cost of \$1,494 to assist the independent public accountants when they perform verifications of fund assets.<sup>7</sup> The total of these four requirements would then be 249 hours at a cost of \$75,517 per respondent. Commission staff estimates that approximately 183 funds file Form N–

<sup>3</sup> The 974 responses are: 1 (one) response to draft and adopt the resolution and 973 notations. Estimates of the number of hours are based on conversations with individuals in the fund industry. The actual number of hours may vary significantly depending on individual fund assets.

<sup>4</sup> The estimate relating to fund accounting personnel is based on the following calculation: 0.5 (burden hours per fund) × \$221 (senior accountant’s hourly rate) = approximately \$111. Unless otherwise indicated, the hourly wage figures used herein are from the Securities Industry and Financial Markets Association’s Management & Professional Earnings in the Securities Industry 2013, modified by Commission staff to account for an 1,800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead.

<sup>5</sup> The staff has estimated the average cost of board of director time as \$4,770 per hour for the board as a whole, based on information received from funds and their counsel.

<sup>6</sup> Respondents estimated that each fund makes 973 responses on an annual basis and spends a total of 0.25 hours per response. The fund personnel involved are Accounts Payable Manager (\$208 hourly rate), Operations Manager (\$373 hourly rate) and Accounting Manager (\$296 hourly rate). The average hourly rate of these personnel is approximately \$292. The estimated cost of preparing notations is based on the following calculation: 974 × 0.25 × \$292 = \$71,102.

<sup>7</sup> This estimate is based on the following calculation: 3 × \$498 (fund controller’s hourly rate) = \$1,494.

17f–2 each year.<sup>8</sup> Thus, the total annual hour burden for rule 17f–2 is estimated to be 45,384 hours.<sup>9</sup> Based on the total costs per fund listed above, the total cost of rule 17f–2’s collection of information requirements is estimated to be approximately \$13,819,611.<sup>10</sup>

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms. Complying with the collections of information required by rule 17f–2 is mandatory for those funds that maintain custody of their own assets. Responses will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission’s estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, C/O Cynthia Roscoe, 100 F Street NE, Washington, DC 20549; or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

Dated: August 25, 2021.

**Jill M. Peterson,**  
Assistant Secretary.

[FR Doc. 2021–18695 Filed 8–30–21; 8:45 am]

**BILLING CODE 8011–01–P**

<sup>8</sup> On average, each year approximately 183 funds filed Form N–17f–2 with the Commission during calendar years 2018–2020. As every fund subject to rule 17f–2 must file Form N–17f–2, we believe this is a good estimate for the number of respondents to the rule.

<sup>9</sup> This estimate is based on the following calculation: 183 (funds) × 249 (total annual hourly burden per fund) = 45,384 hours for rule. The annual burden for rule 17f–2 does not include time spent preparing Form N–17f–2. The burden for Form N–17f–2 is included in a separate collection of information.

<sup>10</sup> This estimate is based on the following calculation: \$75,517 (total annual cost per fund) × 183 funds = \$13,819,611.



**SECURITIES AND EXCHANGE  
COMMISSION**[SEC File No. 270-491; OMB Control No.  
3235-0548]**Proposed Collection; Comment  
Request**

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

*Extension:*  
Rule 35d-1

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the "Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 35d-1 (17 CFR 270.35d-1) under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*) defines as "materially deceptive and misleading" for purposes of Section 35(d), among other things, a name suggesting that a registered investment company or series thereof (a "fund") focuses its investments in a particular type of investment or investments, in investments in a particular industry or group of industries, or in investments in a particular country or geographic region, unless, among other things, the fund adopts a certain investment policy. Rule 35d-1 further requires either that the investment policy is fundamental or that the fund has adopted a policy to provide its shareholders with at least 60 days prior notice of any change in the investment policy ("notice to shareholders"). The rule's notice to shareholders provision is intended to ensure that when shareholders purchase shares in a fund based, at least in part, on its name, and with the expectation that it will follow the investment policy suggested by that name, they will have sufficient time to decide whether to redeem their shares in the event that the fund decides to pursue a different investment policy.

The Commission estimates that there are approximately 11,502 open-end and closed-end funds that have names that are covered by the rule. The Commission estimates that of these 11,502 funds, approximately 38 will provide prior notice to shareholders pursuant to a policy adopted in

accordance with this rule per year. The Commission estimates that the annual burden associated with the notice to shareholders requirement of the rule is 20 hours per response, for annual total of 760 hours per year.

Estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even representative survey or study of the costs of Commission rules and forms. Providing prior notice to shareholders under rule 35d-1 is not mandatory. An investment company may choose to have a name that does not indicate that the fund focuses its investments in a particular type of investment or investments, or in investments in a particular industry or group of industry. If an investment company does choose such a name, it will only need to provide prior notice to shareholders of a change in its 80% investment policy if it first has adopted a policy to provide notice and then has decided to change this investment policy. The information provided under rule 35d-1 will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, C/O Cynthia Roscoe, 100 F Street NE, Washington, DC 20549; or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov).

Dated: August 25, 2021.

**Jill M. Peterson,**  
*Assistant Secretary.*

[FR Doc. 2021-18700 Filed 8-30-21; 8:45 am]

**BILLING CODE 8011-01-P**

**SECURITIES AND EXCHANGE  
COMMISSION**[Release No. 34-92754; File No. SR-Phlx-  
2021-47]**Self-Regulatory Organizations; Nasdaq  
PHLX LLC; Notice of Filing and  
Immediate Effectiveness of Proposed  
Rule Change To Amend Equity 7,  
Section 3 To Adopt an Enhanced  
Market Quality Program**

August 25, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on August 12, 2021, Nasdaq PHLX LLC ("Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's  
Statement of the Terms of Substance of  
the Proposed Rule Change**

The Exchange proposes to amend Equity 7, Section 3 to adopt an Enhanced Market Quality Program and a related credit, as described further below.

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/phlx/rules>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

**II. Self-Regulatory Organization's  
Statement of the Purpose of, and  
Statutory Basis for, the Proposed Rule  
Change**

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

*A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The purpose of the proposed rule change is to amend Equity 7, Section 3 to adopt an Enhanced Market Quality Program and a related credit.

The Enhanced Market Quality Program is intended to provide supplemental incentives to member organizations that meet certain quality standards in acting as market makers for securities on the Exchange by incentivizing such member organizations to make a significant contribution to market quality by providing liquidity at the national best bid and offer (“NBBO”) in a large number of securities for a significant portion of the day. Specifically, the Exchange proposes to make a lump sum payment at the end of each month (a “Fixed Payment”) to a member organization to the extent that the member organization, through one or more of its MPIDs, quotes at the NBBO for at least a threshold percentage of the time during Market Hours in an average number of securities per day during the month, as specified below. On a daily

basis, the Exchange will determine the number of securities in which each of a member organization’s MPIDs satisfied the NBBO requirement. The Exchange will aggregate all of a member organization’s MPIDs to determine the number of securities for purposes of the NBBO requirement. The program is open to all member organizations. A member organization may but is not required to be, a registered market maker in any security; thus, the program does not by itself impose a two-sided quotation obligation or convey any of the benefits associated with being a registered market maker. Accordingly, the program is designed to attract liquidity both from traditional market makers and from other firms that are willing to commit capital to support liquidity at the NBBO.

For purposes of the Enhanced Market Quality Program, a member organization will be deemed to quote at the NBBO in a security if it quotes a displayed order of at least 100 shares in the security and prices the order at either the national best bid or the national best offer or both the national best bid and offer for the security. The Exchange will determine the amount of the Fixed Payment that it pays to a qualifying member

organization by multiplying the average daily number of its qualifying securities during the month within the range set forth in the highest qualifying Tier (rounded to the nearest whole number) by the applicable amounts set forth in the following tables below and adding the specified lump sum, where applicable. For a particular Tape A security to count towards the threshold for qualifying for the Fixed Payment on a particular day, and receiving the Fixed Payment, a member organization has to quote such security at the NBBO for at least 30% of the time during Market Hours on that day. For a particular Tape B security to count towards the threshold for qualifying for the Fixed Payment on a particular day, and receiving the Fixed Payment, a member organization has to quote such security at the NBBO for at least 50% of the time during Market Hours on that day. A member organization that qualifies for the Fixed Payment for securities in each of Tapes A and B will receive Fixed Payments covering qualifying securities in both Tapes, but within each Tape, a member organization may only qualify for one Tier during a month.<sup>3</sup>

The Exchange proposes to set the tiers and the Fixed Payments as follows:

TAPE A SECURITIES

Tiers	Average daily number of securities quoted at the NBBO for at least 30% of the time during Market Hours during the month	Fixed payment
1	0–199	\$0 per qualified security per month.
2	200–299	\$25 per qualified security over 199.
3	300–399	\$2,500 + (\$200 per qualified security over 299).
4	400–499	\$22,500 + (\$300 per qualified security over 399).
5	500 or greater	\$52,500 + (\$400 per qualified security over 499).

TAPE B SECURITIES

Tiers	Average daily number of securities quoted at the NBBO for at least 50% of the time during Market Hours during the month	Fixed payment
1	0–299	\$0 per qualified security per month.
2	300–399	\$100 per qualified security over 299.
3	400–499	\$10,000 + (\$200 per qualified security over 399).
4	500 or greater	\$30,000 + (\$300 per qualified security over 499).

Through the use of this incentive program, the Exchange hopes to provide improved trading conditions for all market participants through narrower bid-ask spreads and increased depth of liquidity available at the inside market. In addition, the program reflects an

effort to use financial incentives to encourage a wider variety of member organizations to make positive commitments to promote market quality. The Exchange believes that different member organizations may respond to different incentives, and

therefore the Enhanced Market Quality Program is designed to promote market quality through quoting activity. The Exchange recognizes that while generally market participants will provide quotes with the intention of trading, market makers and liquidity

<sup>3</sup> Example 1: A member firm quotes an average of 250 symbols a day in tape A over the 30% time threshold in a particular month. The Fixed Payment due to such firm is calculated as follows: 51 (the number of symbols over 199) times \$25, which

equals to \$1,275 for the month. This example shows a tape A Tier 2 Fixed Payment. Example 2: A member firm quotes an average of 350 symbols a day in tape A over the 30% time threshold in a particular month. The Fixed Payment due to such

firm is calculated as follows: \$2,500 plus 51 (the number of symbols over 299) times \$200, which equals to \$12,700 for the month. This example shows a tape A Tier 3 Fixed Payment.

providers cannot control when counter parties choose to interact with those quotes and therefore the Exchange believes it is beneficial to the market to offer this incentive based on quoting activity directly.

The Exchange notes that it will make the Fixed Payment in addition to other rebates or fees provided under Equity 7, Sections 3 (a)–(c).

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>4</sup> in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,<sup>5</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among member organizations and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”<sup>6</sup>

Likewise, in *NetCoalition v. Securities and Exchange Commission*<sup>7</sup> (“NetCoalition”) the D.C. Circuit stated as follows: “[n]o one disputes that competition for order flow is ‘fierce.’ . . . As the SEC explained, ‘[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution’; [and] ‘no exchange can afford to take its market share percentages for granted’ because ‘no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers’ . . . .”<sup>8</sup>

The Exchange believes that the proposed Enhanced Market Quality

Program is reasonable because it is similar to other incentive programs offered by the Exchange for displayed orders that provide liquidity, like the Qualified Market Maker Program set forth in Equity 7, Sections 3(c). The proposed Fixed Payment will provide an opportunity to member organizations to receive an additional credit in return for certain levels of participation on the Exchange as measured by quoting at the NBBO. The proposed credit is set at a level that is reflective of the beneficial contributions of market participants that quote significantly at the NBBO for a wide range of symbols. The Exchange believes that it is appropriate to limit applicability of the proposed credit to displayed orders in securities in Tape A and Tape B, and set the credits higher for the Tape A securities, insofar as the Exchange seeks to incentivize member organizations to add liquidity to the Exchange in such securities and improve the market therefor.

The Exchange believes that the proposed Fixed Payments set forth by the Enhanced Market Quality Program are an equitable allocation and are not unfairly discriminatory because the Exchange will offer the same credit to all similarly situated member organizations. Moreover, the proposed qualification criteria requires a member organization to quote significantly at the NBBO therefore contributing to market quality in a meaningful way on the Exchange. Any member organization may quote at the NBBO at the level required by the qualification criteria of the Enhanced Market Quality Program. The Exchange notes that it has a similar Qualified Market Maker Program in which member organizations are required to quote at the NBBO more than a certain amount of time during regular market hours.<sup>9</sup> For these reasons, the Exchange believes that the proposed Enhanced Market Quality Program Fixed Payments and qualification criteria are an equitable allocation and are not unfairly discriminatory.

The Exchange believes that the proposal is equitable and is not unfairly discriminatory because the Exchange proposes to offer the same Fixed Payments to all similarly situated member organizations. The Exchange also believes that it is equitable and not unfairly discriminatory to establish the Enhanced Market Quality Program only for Tape A and Tape B securities, and set the credits higher for the Tape A securities, because the Exchange has limited resources and the Exchange

believes that the best current application of such limited resources is to improve the market quality for Tape A and Tape B securities, as proposed.

## B. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

In this instance, the proposed changes to the Exchange’s credits provided to member organizations do not impose a burden on competition because the Exchange’s execution services are completely voluntary and subject to extensive competition both from other exchanges and from off-exchange venues. The proposed Fixed Payment provides member organizations with the opportunity to be given higher credits for quotations if they improve the market by providing significant quoting at the NBBO in a large number of securities which the Exchange believes will improve market quality.

In terms of intra-market competition, the Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act because the program is open to all member organizations on the same terms.

In sum, the proposed changes are designed to make the Exchange a more desirable venue on which to transact; however, if the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of member organizations or competing

<sup>4</sup> 15 U.S.C. 78f(b).

<sup>5</sup> 15 U.S.C. 78f(b)(4) and (5).

<sup>6</sup> Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (“Regulation NMS Adopting Release”).

<sup>7</sup> *NetCoalition v. SEC*, 615 F.3d 525 (D.C. Cir. 2010).

<sup>8</sup> *Id.* at 539 (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

<sup>9</sup> See Qualified Market Maker Program, Equity 7, Section 3(c).

order execution venues to maintain their competitive standing in the financial markets.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.<sup>10</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2021-47 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090. All submissions should refer to File Number SR-Phlx-2021-47. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the

Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-Phlx-2021-47 and should be submitted on or before September 21, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2021-18676 Filed 8-30-21; 8:45 am]

**BILLING CODE 8011-01-P**

**SMALL BUSINESS ADMINISTRATION**

**[Disaster Declaration #17114 and #17115; Tennessee Disaster Number TN-00130]**

**Presidential Declaration Amendment of a Major Disaster for the State of Tennessee**

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Amendment 1.

**SUMMARY:** This is an amendment of the Presidential declaration of a major disaster for the State of Tennessee (FEMA-4609-DR), dated 08/23/2021.

*Incident:* Severe Storm and Flooding.  
*Incident Period:* 08/21/2021.

**DATES:** Issued on 08/25/2021.

*Physical Loan Application Deadline Date:* 10/22/2021.

*Economic Injury (EIDL) Loan Application Deadline Date:* 05/23/2022.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance,

U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205-6734.

**SUPPLEMENTARY INFORMATION:** The notice of the President's major disaster declaration for the State of Tennessee, dated 08/23/2021, is hereby amended to include the following areas as adversely affected by the disaster:

*Primary Counties (Physical Damage and Economic Injury Loans):* Dickson, Hickman, Houston.

*Contiguous Counties (Economic Injury Loans Only):*

Tennessee: Cheatham, Lewis, Maury, Montgomery, Stewart, Williamson.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

**James Rivera,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 2021-18731 Filed 8-30-21; 8:45 am]

**BILLING CODE 8026-03-P**

**SMALL BUSINESS ADMINISTRATION**

**[Disaster Declaration #17119 and #17120; California Disaster Number CA-00340]**

**Presidential Declaration of a Major Disaster for the State of California**

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a Notice of the Presidential declaration of a major disaster for the State of California (FEMA-4610-DR), dated 08/24/2021.  
*Incident:* Wildfires.

*Incident Period:* 07/14/2021 and continuing.

**DATES:** Issued on 08/24/2021.

*Physical Loan Application Deadline Date:* 10/25/2021.

*Economic Injury (EIDL) Loan Application Deadline Date:* 05/24/2022.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205-6734.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of the President's major disaster declaration on 08/24/2021, applications for disaster loans may be filed at the address listed above or other locally announced locations. The following areas have been

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>11</sup> 17 CFR 200.30-3(a)(12).

determined to be adversely affected by the disaster:

*Primary Counties (Physical Damage and Economic Injury Loans):* Lassen, Nevada, Placer, Plumas.

*Contiguous Counties (Economic Injury Loans Only):*

California: Butte, El Dorado, Modoc, Sacramento, Shasta, Sierra, Sutter, Tehama, Yuba.  
Nevada: Washoe.

*The Interest Rates are:*

	Percent
<i>For Physical Damage:</i>	
Homeowners with Credit Available Elsewhere .....	3.250
Homeowners without Credit Available Elsewhere .....	1.625
Businesses with Credit Available Elsewhere .....	5.760
Businesses without Credit Available Elsewhere .....	2.880
Non-Profit Organizations with Credit Available Elsewhere ...	2.000
Non-Profit Organizations without Credit Available Elsewhere .....	2.000
<i>For Economic Injury:</i>	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere .....	2.880
Non-Profit Organizations without Credit Available Elsewhere .....	2.000

The number assigned to this disaster for physical damage is 17119 5 and for economic injury is 17120 0.

(Catalog of Federal Domestic Assistance Number 59008)

**James Rivera,**  
*Associate Administrator for Disaster Assistance.*

[FR Doc. 2021-18744 Filed 8-30-21; 8:45 am]

BILLING CODE 8026-03-P

**SMALL BUSINESS ADMINISTRATION**

[Disaster Declaration #17118; California Disaster Number CA-00343 Declaration of Economic Injury]

**Administrative Declaration of an Economic Injury Disaster for the State of California**

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a notice of an Economic Injury Disaster Loan (EIDL) declaration for the State of California dated 08/26/2021. Incident: Tamarack Fire. Incident Period: 07/04/2021 and continuing.

**DATES:** Issued on 08/26/2021. Economic Injury (EIDL) Loan Application Deadline Date: 05/26/2022.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205-6734.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of the Administrator's EIDL declaration, applications for economic injury disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

*Primary Counties:* Alpine.

*Contiguous Counties:*

California: Amador, Calaveras, El Dorado, Mono, Tuolumne.  
Nevada: Douglas.

*The Interest Rates are:*

	Percent
Businesses and Small Agricultural Cooperatives without Credit Available Elsewhere .....	2.880
Non-Profit Organizations without Credit Available Elsewhere .....	2.000

The number assigned to this disaster for economic injury is 171180.

The States which received an EIDL Declaration #17118 are California, Nevada.

(Catalog of Federal Domestic Assistance Number 59008)

**Isabella Guzman,**  
*Administrator.*

[FR Doc. 2021-18749 Filed 8-30-21; 8:45 am]

BILLING CODE 8026-03-P

**DEPARTMENT OF STATE**

[Public Notice: 11520]

**Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: “By Her Hand: Artemisia Gentileschi and Woman Artists in Italy, 1500–1800” Exhibition**

**SUMMARY:** Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to agreements with their foreign owners or custodians for temporary display in the exhibition “By Her Hand: Artemisia Gentileschi and Woman Artists in Italy, 1500–1800” at the Wadsworth Atheneum Museum of Art, Hartford,

Connecticut, the Detroit Institute of Arts, Detroit, Michigan, and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Chi D. Tran, Program Administrator, Office of the Legal Adviser, U.S. Department of State (telephone: 202-632-6471; email: [section2459@state.gov](mailto:section2459@state.gov)). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA-5), Suite 5H03, Washington, DC 20522-0505.

**SUPPLEMENTARY INFORMATION:** The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236-3 of August 28, 2000.

**Matthew R. Lussenhop,**  
*Acting Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.*

[FR Doc. 2021-18668 Filed 8-30-21; 8:45 am]

BILLING CODE 4710-05-P

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

[Docket No: FAA-2016-6596]

**Passenger Facility Charge (PFC) Program: Eligibility of Ground Access Projects Meeting Certain Criteria**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of availability of the Passenger Facility Charge (PFC) Update 75-21: Eligibility of on-airport rail access projects.

**SUMMARY:** FAA is announcing the availability of PFC Update 75-21 that makes rail lines that do not exclusively serve the airport PFC eligible, and provides several methodologies for calculating the PFC-eligible costs.

**DATES:** This PFC update on the use of PFC funding for on-airport, rail access projects was effective on January 12, 2021.

**ADDRESSES:** To access the PFC update, please use: [https://www.faa.gov/airports/pfc/pfc\\_updates/](https://www.faa.gov/airports/pfc/pfc_updates/).

**FOR FURTHER INFORMATION CONTACT:**

Dennis Walsh, Financial Analysis and Passenger Facility Charge Branch, APP-510, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591, telephone (202) 267-9593; facsimile (202) 267-5302.

**SUPPLEMENTARY INFORMATION:** Section 123 of the FAA Reauthorization Act of 2018 (Pub. L. 115-254) required FAA to publish in the **Federal Register** a final policy amendment consistent with the notice published in the **Federal Register** on May 3, 2016 (81 FR 26611). On January 12, 2021, FAA issued a final policy amendment on the eligibility of on-airport rail access projects.

This PFC update amends FAA policy previously published in 2004, *Notice of Policy Regarding Eligibility of Airport Ground Access Transportation Projects for Funding Under the Passenger Facility Charge Program* (69 FR 6366) (the 2004 Policy), to make rail lines that do not exclusively serve the airport PFC eligible, and provides several methodologies for calculating the PFC-eligible costs. The FAA will apply the 2004 Policy to all other ground access projects using PFC funds. FAA has posted PFC Update 75-21: Eligibility of on-airport rail access projects on the FAA Office of Airports website: [https://www.faa.gov/airports/pfc/pfc\\_updates/](https://www.faa.gov/airports/pfc/pfc_updates/).

Issued in Washington, DC, on August 25, 2021.

**Robert J. Craven,**

*Director of Airport Planning and Programming.*

[FR Doc. 2021-18684 Filed 8-30-21; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration**

[Summary Notice No.-2022-2118]

**Petition for Exemption; Summary of Petition Received; San Antonio Air Charter**

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Notice.

**SUMMARY:** This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, FAA's exemption process. Neither publication of this notice nor the inclusion nor omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

**DATES:** Comments on this petition must identify the petition docket number and must be received on or before September 20, 2021.

**ADDRESSES:** Send comments identified by docket number FAA-2021-0489 using any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the online instructions for sending your comments electronically.

- *Mail:* Send comments to Docket Operations, M-30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12-140, West Building Ground Floor, Washington, DC 20590-0001.

- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590-0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- *Fax:* Fax comments to Docket Operations at (202) 493-2251.

*Privacy:* In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to <http://www.regulations.gov>, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <http://www.dot.gov/privacy>.

*Docket:* Background documents or comments received may be read at <http://www.regulations.gov> at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590-0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Nia Daniels, (202) 267-9626, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC.

**Timothy R. Adams,**

*Acting Executive Director, Office of Rulemaking.*

**Petition for Exemption**

*Docket No.:* FAA-2021-0489.

*Petitioner:* San Antonio Air Charter.

*Sections of 14 CFR Affected:*

61.113(a); 91.7(a); 91.319(a); 135.25(a); 135.93; 135.143(a) and (b); and 135.115.

*Description of Relief Sought:* San Antonio Air Charter (SAAC) petitions

for an exemption from Title 14 Code of Federal Regulations §§ 61.113(a); 91.7(a); 91.319(a); 135.25(a); 135.93; 135.143(a) and (b); and 135.115 that would allow SAAC, a part 135 operator, to enable unmanned aircraft system (UAS) commercial flights of a developmental optionally piloted aircraft (OPA). That UAS, the Textron Grand Caravan 208B, has been modified to enable OPA operations—when the aircraft is flown as if it is unmanned from a ground control station, but is actually under the supervision of an on-board pilot in command, who is able to disconnect the auto-flight system and assume traditional control of the aircraft should an off-nominal situation arise.

[FR Doc. 2021-18661 Filed 8-30-21; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF TRANSPORTATION****Federal Motor Carrier Safety Administration**

[Docket No. FMCSA-2014-0383; FMCSA-2014-0386; FMCSA-2018-0135]

**Qualification of Drivers; Exemption Applications; Hearing**

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

**ACTION:** Notice of renewal of exemptions; request for comments.

**SUMMARY:** FMCSA announces its decision to renew exemptions for four individuals from the hearing requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) for interstate commercial motor vehicle (CMV) drivers. The exemptions enable these hard of hearing and deaf individuals to continue to operate CMVs in interstate commerce.

**DATES:** The exemptions are applicable on September 12, 2021. The exemptions expire on September 12, 2023. Comments must be received on or before September 30, 2021.

**ADDRESSES:** You may submit comments identified by the Federal Docket Management System (FDMS) Docket No. FMCSA-2014-0383, Docket No. FMCSA-2014-0386, or Docket No. FMCSA-2018-0135 using any of the following methods:

- *Federal eRulemaking Portal:* Go to [www.regulations.gov](http://www.regulations.gov), insert the docket number, FMCSA-2014-0383, FMCSA-2014-0386, or FMCSA-2018-0135 in the keyword box, and click "Search." Next, sort the results by "Posted (Newer-Older)," choose the first notice listed, and click on the "Comment"

button. Follow the online instructions for submitting comments.

- *Mail:* Dockets Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.

- *Hand Delivery:* West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal Holidays.

- *Fax:* (202) 493-2251.

To avoid duplication, please use only one of these four methods. See the "Public Participation" portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366-4001, [fmcsamedical@dot.gov](mailto:fmcsamedical@dot.gov), FMCSA, DOT, 1200 New Jersey Avenue SE, Room W64-224, Washington, DC 20590-0001. Office hours are from 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366-9826.

#### **SUPPLEMENTARY INFORMATION:**

### **I. Public Participation**

#### *A. Submitting Comments*

If you submit a comment, please include the docket number for this notice (Docket No. FMCSA-2014-0383, Docket No. FMCSA-2014-0386, or Docket No. FMCSA-2018-0135), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to [www.regulations.gov/](http://www.regulations.gov/), insert the docket number, FMCSA-2014-0383, FMCSA-2014-0386, or FMCSA-2018-0135 in the keyword box, and click "Search." Next, sort the results by "Posted (Newer-Older)," choose the first notice listed, click the "Comment" button, and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period.

#### *B. Viewing Comments*

To view comments go to [www.regulations.gov](http://www.regulations.gov). Insert the docket number, FMCSA-2014-0383, FMCSA-2014-0386, or FMCSA-2018-0135 in the keyword box, and click "Search." Next, sort the results by "Posted (Newer-Older)," choose the first notice listed, and click "Browse Comments." If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590-0001, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Dockets Operations.

#### *C. Privacy Act*

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its regulatory process. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at [www.transportation.gov/privacy](http://www.transportation.gov/privacy).

### **II. Background**

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statute also allows the Agency to renew exemptions at the end of the 5-year period. FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver's medical certification.

The physical qualification standard for drivers regarding hearing found in 49 CFR 391.41(b)(11) states that a person is physically qualified to drive a CMV if that person first perceives a forced whispered voice in the better ear

at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5-1951.

This standard was adopted in 1970 and was revised in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid, 35 FR 6458, 6463 (April 22, 1970) and 36 FR 12857 (July 3, 1971).

The four individuals listed in this notice have requested renewal of their exemptions from the hearing standard in § 391.41(b)(11), in accordance with FMCSA procedures. Accordingly, FMCSA has evaluated these applications for renewal on their merits and decided to extend each exemption for a renewable 2-year period.

### **III. Request for Comments**

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b), FMCSA will take immediate steps to revoke the exemption of a driver.

### **IV. Basis for Renewing Exemptions**

In accordance with 49 U.S.C. 31136(e) and 31315(b), each of the four applicants has satisfied the renewal conditions for obtaining an exemption from the hearing requirement. The four drivers in this notice remain in good standing with the Agency. In addition, for Commercial Driver's License (CDL) holders, the Commercial Driver's License Information System and the Motor Carrier Management Information System are searched for crash and violation data. For non-CDL holders, the Agency reviews the driving records from the State Driver's Licensing Agency. These factors provide an adequate basis for predicting each driver's ability to continue to safely operate a CMV in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each of these drivers for a period of 2 years is likely to achieve a level of safety equal to that existing without the exemption.

As of September 12, 2021, and in accordance with 49 U.S.C. 31136(e) and



31315(b), the following four individuals have satisfied the renewal conditions for obtaining an exemption from the hearing requirement in the FMCSRs for interstate CMV drivers:

Daniel Alcozer (TX)

Jason Gensler (OH)

Jay Larson (TX)

Eduwin Pineiro (NJ)

The drivers were included in docket number FMCSA–2014–0383, FMCSA–2014–0386, or FMCSA–2018–0135. Their exemptions are applicable as of September 12, 2021 and will expire on September 12, 2023.

#### V. Conditions and Requirements

The exemptions are extended subject to the following conditions: (1) Each driver must report any crashes or accidents as defined in § 390.5; and (2) report all citations and convictions for disqualifying offenses under 49 CFR 383 and 49 CFR 391 to FMCSA; and (3) each driver prohibited from operating a motorcoach or bus with passengers in interstate commerce. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. In addition, the exemption does not exempt the individual from meeting the applicable CDL testing requirements. Each exemption will be valid for 2 years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

#### VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

#### VII. Conclusion

Based upon its evaluation of the four exemption applications, FMCSA renews the exemptions of the aforementioned drivers from the hearing requirement in § 391.41(b)(11). In accordance with 49 U.S.C. 31136(e) and 31315(b), each exemption will be valid for two years unless revoked earlier by FMCSA.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2021–18781 Filed 8–30–21; 8:45 am]

**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA–FMCSA–2021–0015]

#### Qualification of Drivers; Exemption Applications; Hearing

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

**ACTION:** Notice of applications for exemption; request for comments.

**SUMMARY:** FMCSA announces receipt of applications from 25 individuals for an exemption from the hearing requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) to operate a commercial motor vehicle (CMV) in interstate commerce. If granted, the exemptions would enable these hard of hearing and deaf individuals to operate CMVs in interstate commerce.

**DATES:** Comments must be received on or before September 30, 2021.

**ADDRESSES:** You may submit comments identified by the Federal Docket Management System (FDMS) Docket No. FMCSA–2021–0015 using any of the following methods:

- *Federal eRulemaking Portal:* Go to [www.regulations.gov/](http://www.regulations.gov/), insert the docket number, FMCSA–2021–0015, in the keyword box, and click “Search.” Next, sort the results by “Posted (Newer-Older),” choose the first notice listed, and click on the “Comment” button. Follow the online instructions for submitting comments.

- *Mail:* Dockets Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001 between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal Holidays.
- *Fax:* (202) 493–2251.

To avoid duplication, please use only one of these four methods. See the “Public Participation” portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, [fmcsamedical@dot.gov](mailto:fmcsamedical@dot.gov), FMCSA, DOT, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting

material to the docket, contact Dockets Operations, (202) 366–9826.

#### SUPPLEMENTARY INFORMATION:

##### I. Public Participation

###### A. Submitting Comments

If you submit a comment, please include the docket number for this notice (Docket No. FMCSA–2021–0015), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to [www.regulations.gov/docket?D=FMCSA-2021-0015](http://www.regulations.gov/docket?D=FMCSA-2021-0015). Next, sort the results by “Posted (Newer-Older),” choose the first notice listed, click the “Comment” button, and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period.

###### B. Viewing Comments

To view comments go to [www.regulations.gov](http://www.regulations.gov). Insert the docket number, FMCSA–2021–0015, in the keyword box, and click “Search.” Next, sort the results by “Posted (Newer-Older),” choose the first notice listed, and click “Browse Comments.” If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.



*C. Privacy Act*

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its regulatory process. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at [www.transportation.gov/privacy](http://www.transportation.gov/privacy).

**II. Background**

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statute also allows the Agency to renew exemptions at the end of the 5-year period. FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver's medical certification.

The 25 individuals listed in this notice have requested an exemption from the hearing requirement in 49 CFR 391.41(b)(11). Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

The physical qualification standard for drivers regarding hearing found in § 391.41(b)(11) states that a person is physically qualified to drive a CMV if that person first perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5—1951.

This standard was adopted in 1970 and was revised in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid, 35 FR 6458, 6463 (April 22, 1970) and 36 FR 12857 (July 3, 1971).

On February 1, 2013, FMCSA announced in a Notice of Final Disposition titled, "Qualification of Drivers; Application for Exemptions; National Association of the Deaf," (78 FR 7479), its decision to grant requests from 40 individuals for exemptions from the Agency's physical qualification standard concerning hearing for interstate CMV drivers. Since that time

the Agency has published additional notices granting requests from hard of hearing and deaf individuals for exemptions from the Agency's physical qualification standard concerning hearing for interstate CMV drivers.

**III. Qualifications of Applicants***Judith Badore*

Ms. Badore, 78, holds a class B license in Vermont.

*Eric Bastian*

Mr. Bastian, 37, holds a class B license in New York.

*Michael Camacho-Luna*

Mr. Camacho-Luna, 41, holds a class D license in Virginia.

*Kevin Clickner*

Mr. Clickner, 56, holds a CDL in Michigan.

*Tiffany Davis*

Ms. Davis, 29, holds a class E license in Florida.

*Jonathon DeBoer*

Mr. DeBoer, 40, holds a class C license in California.

*Michael Garman*

Mr. Garman, 29, holds an operator's license in Indiana.

*Dareous Glover*

Mr. Glover, 23, holds a class D license in Illinois.

*Delroy Hunt*

Mr. Hunt, 35, holds a class E license in Florida.

*Andrew Jones*

Mr. Jones, 40, holds a CDL in Iowa.

*Lawrence Mills*

Mr. Mills, 56, holds a class D license in Ohio.

*John Norman*

Mr. Norman, 52, holds a class A CDL in Illinois.

*Destin Overstreet*

Mr. Overstreet, 25, holds a class D license in Utah.

*Damiere Phillips*

Mr. Phillips, 28, holds a class C license in Pennsylvania.

*Stuart Randles*

Mr. Randles, 56, holds a class E license in Florida.

*David Ritter*

Mr. Ritter, 65, holds a class A license in Washington.

*Beau Robinson*

Mr. Robinson, 39, holds a class C license in Texas.

*Jose Rosales*

Mr. Rosales, 44, holds a class C license in Maryland.

*Christopher Shaw*

Mr. Shaw, 31, holds a class C license in Maryland.

*Harmeet Singh*

Mr. Singh, 28, holds a class C license in California.

*William Smitley*

Mr. Smitley, 37, holds a class AM CDL in California.

*Kyle Voss*

Mr. Voss, 31, holds a class C license in Texas.

*Deborah Wagner*

Ms. Wagner, 44, holds a class C license in Pennsylvania.

*Donald Weyand*

Mr. Weyand, 33, holds a class C license in Michigan.

*Steven Woods*

Mr. Woods, 33, holds a class D license in Tennessee.

**IV. Request for Comments**

In accordance with 49 U.S.C. 31136(e) and 31315(b), FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated under the **DATES** section of the notice.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2021-18779 Filed 8-30-21; 8:45 am]

**BILLING CODE 4910-EX-P**

**DEPARTMENT OF TRANSPORTATION****Federal Motor Carrier Safety Administration**

**[Docket No. FMCSA-2008-0355; FMCSA-2011-0089; FMCSA-2014-0381; FMCSA-2014-0382; FMCSA-2017-0253; FMCSA-2018-0057; FMCSA-2019-0028; FMCSA-2019-0029]**

**Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders**

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA announces its decision to renew exemptions for 13 individuals from the requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) that interstate commercial motor vehicle (CMV) drivers have “no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.” The exemptions enable these individuals who have had one or more seizures and are taking anti-seizure medication to continue to operate CMVs in interstate commerce.

**DATES:** The exemptions were applicable on July 12, 2021. The exemptions expire on July 12, 2023.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366-4001, [fmcsamedical@dot.gov](mailto:fmcsamedical@dot.gov), FMCSA, DOT, 1200 New Jersey Avenue SE, Room W64-224, Washington, DC 20590-0001. Office hours are from 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366-9826.

**SUPPLEMENTARY INFORMATION:**

**I. Public Participation**

*A. Viewing Comments*

To view comments go to [www.regulations.gov](http://www.regulations.gov). Insert the docket number, FMCSA-2008-0355, FMCSA-2011-0089, FMCSA-2014-0381, FMCSA-2014-0382, FMCSA-2017-0253, FMCSA-2018-0057, FMCSA-2019-0028, or FMCSA-2019-0029 in the keyword box, and click “Search.” Next, sort the results by “Posted (Newer-Older),” choose the first notice listed, and click “Browse Comments.” If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590-0001, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Dockets Operations.

*B. Privacy Act*

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its regulatory process. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in

the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at [www.transportation.gov/privacy](http://www.transportation.gov/privacy).

**II. Background**

On July 15, 2021, FMCSA published a notice announcing its decision to renew exemptions for 13 individuals from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8) to operate a CMV in interstate commerce and requested comments from the public (86 FR 37397). The public comment period ended on August 16, 2021, and no comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that renewing these exemptions would achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with § 391.41(b)(8).

The physical qualification standard for drivers regarding epilepsy found in § 391.41(b)(8) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

In addition to the regulations, FMCSA has published advisory criteria<sup>1</sup> to assist medical examiners in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce.

**III. Discussion of Comments**

FMCSA received no comments in this preceding.

**IV. Conclusion**

Based on its evaluation of the 13 renewal exemption applications, FMCSA announces its decision to exempt the following drivers from the epilepsy and seizure disorders prohibition in § 391.41(b)(8).

As of July 12, 2021, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following 13 individuals have satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers (86 FR 37397):

Prince Austin, Jr. (OH)  
Darcy Baker (OH)  
Gary Bartels (SD)  
Frank Cekovic (PA)  
Monte DeRocini (PA)  
Teddy Dixon (GA)

<sup>1</sup> These criteria may be found in Appendix A to Part 391—Medical Advisory Criteria, section H. *Epilepsy*: § 391.41(b)(8), paragraphs 3, 4, and 5, which is available on the internet at <https://www.gpo.gov/fdsys/pkg/CFR-2015-title49-vol5/pdf/CFR-2015-title49-vol5-part391-appA.pdf>.

Jaime Dougherty (MN)  
Martin Ford (WI)  
David Johnston (HI)  
Brent Mapes (IL)  
Enrico Mucci (PA)  
Charles Skelton (AL)  
Kevin Wiggins (KY)

The drivers were included in docket number FMCSA-2008-0355,

FMCSA-2011-0089, FMCSA-2014-0381, FMCSA-2014-0382, FMCSA-2017-0253, FMCSA-2018-0057, FMCSA-2019-0028, or FMCSA-2019-0029. Their exemptions were applicable as of July 12, 2021 and will expire on July 12, 2023.

In accordance with 49 U.S.C. 31315(b), each exemption will be valid for 2 years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2021-18780 Filed 8-30-21; 8:45 am]

**BILLING CODE 4910-EX-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Railroad Administration**

**Notice of Funding Opportunity for Consolidated Rail Infrastructure and Safety Improvements**

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Notice of Funding Opportunity (NOFO or notice).

**SUMMARY:** This notice details the application requirements and procedures to obtain grant funding for eligible projects under the Consolidated Rail Infrastructure and Safety Improvements (CRISI) Program, and related Trespass Prevention projects. The opportunities described in this notice are made available under Assistance Listings Number 20.325, “Consolidated Rail Infrastructure and Safety Improvements.”

**DATES:** Applications for funding under this solicitation are due no later than 5:00 p.m. ET, November 29, 2021. Applications that are incomplete or received after 5:00 p.m. ET on November 29, 2021 will not be considered for funding. See *Section D* of

this notice for additional information on the application process.

**ADDRESSES:** Applications must be submitted via [www.Grants.gov](http://www.Grants.gov). Only applicants who comply with all submission requirements described in this notice and submit applications through [www.Grants.gov](http://www.Grants.gov) will be eligible for award. For any supporting application materials that an applicant is unable to submit via [www.Grants.gov](http://www.Grants.gov) (such as oversized engineering drawings), an applicant may submit an original and two (2) copies to Mr. Douglas Gascon, Office of Policy and Planning, Federal Railroad Administration, 1200 New Jersey Avenue SE, Room W38–212, Washington, DC 20590. However, due to delays caused by enhanced screening of mail delivered via the U.S. Postal Service, applicants are advised to use other means of conveyance (such as courier service) to assure timely receipt of materials before the application deadline.

**FOR FURTHER INFORMATION CONTACT:** For further project or program-related information in this notice, please contact Mr. Douglas Gascon, Office of Policy and Planning, Federal Railroad Administration, 1200 New Jersey Avenue SE, Room W38–212, Washington, DC 20590; email: [douglas.gascon@dot.gov](mailto:douglas.gascon@dot.gov); phone: 202–493–0239.

**SUPPLEMENTARY INFORMATION:**

*Notice to applicants:* FRA recommends that applicants read this notice in its entirety prior to preparing application materials. Definitions of key terms used throughout the NOFO are provided in *Section A(3)* below. These key terms are capitalized throughout the NOFO. There are several administrative prerequisites and specific eligibility requirements described herein with which applicants must comply. Additionally, applicants should note that the required Project Narrative component of the application package may not exceed 25 pages in length.

**Table of Contents**

- A. Program Description
- B. Federal Award Information
- C. Eligibility Information
- D. Application and Submission Information
- E. Application Review Information
- F. Federal Award Administration Information
- G. Federal Awarding Agency Contacts
- H. Other Information

**A. Program Description**

*(A) Overview*

Our nation's rail network is a critical component of the U.S. transportation

system and economy. Prior to the coronavirus disease 2019 (COVID–19) pandemic, rail carried over 32.5 million passengers on Amtrak services and approximately 1.6 billion tons of freight valued at over \$600 billion each year. The CRISI program will enhance rail safety, help to undo inequities caused by transportation and land use policies and create new opportunities for underserved communities, provide energy efficient transportation options to confront the effects of climate change, invest in projects that spur economic growth, and ensure our world-class freight network can meet the mobility demands of a growing population.

Congress authorized the CRISI grant program for the Secretary to invest in a wide range of projects within the United States to improve railroad safety, efficiency, and reliability; mitigate congestion at both intercity passenger and freight rail chokepoints; enhance multi-modal connections; and lead to new or substantially improved Intercity Passenger Rail Transportation corridors. Rail safety projects include, but are not limited to, grade crossing enhancements, rail line Relocations and Improvements, and deployment of railroad safety technology. Eligible activities also include regional rail and corridor Planning, environmental analyses, research, workforce development, and training. The purpose of this notice is to solicit applications for the competitive CRISI Program provided in Consolidated Appropriations Act, 2021, Div. L, Tit I, Public Law 116–260 (2021 Appropriation) and related funding provided in the Consolidated Appropriations Act, 2019, Div. G, Tit I, Public Law 116–6 (2019 Appropriation).

The CRISI Program is authorized under Section 11301 of the Fixing America's Surface Transportation (FAST) Act, Public Law 114–94 (2015); 49 U.S.C. 22907. Grant funding to help implement FRA's National Strategy to Prevent Trespassing for law enforcement agencies and for railroad trespass suicide prevention programs (Non-CRISI Funding), as provided in the 2021 Appropriation and the 2019 Appropriation, is authorized pursuant to 49 U.S.C. 103(i) and 49 U.S.C. 20151(b). Unless otherwise stated herein, to the extent practicable, applications for the Non-CRISI Funding will be evaluated consistent with the selection criteria for a CRISI safety program under 49 U.S.C. 22907(c)(10).

Consistent with Biden-Harris Administration priorities, the Department seeks to fund projects that address climate change impacts and environmental justice. Projects should

include components that reduce emissions, promote energy efficiency, increase resiliency, and recycle or redevelop existing infrastructure. This objective is consistent with Executive Order 14008, Tackling the Climate Crisis at Home and Abroad (86 FR 7619). As part of the Department's implementation of that Executive Order, the Department encourages the submission of applications that would direct resources and benefits towards low-income communities, disadvantaged communities, or communities underserved by affordable transportation.

The Department also seeks to encourage racial equity by investing in projects that proactively address racial equity and barriers to opportunity. Projects should include components that improve or expand transportation options, and mitigate the safety risks and detrimental quality of life effects that rail lines can have on communities, particularly low-income areas and communities of color. This objective supports the Department's strategic goal related to infrastructure, with the potential for significantly enhancing environmental stewardship and community partnerships, and reflects Executive Order 13985, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government (86 FR 7009). *Section E* describes the climate change, environmental justice, and racial equity considerations that an applicant can undertake to address these criteria.

Consistent with the Rural Opportunities to Use Transportation for Economic Success (R.O.U.T.E.S.) initiative, the Department seeks rural projects that address deteriorating conditions and disproportionately high fatality rates on rural transportation infrastructure. Please visit <https://www.transportation.gov/rural> to learn more about DOT's efforts to address disparities in rural infrastructure.

*(B) Changes From FY 2020 CRISI NOFO*

This notice updates the FY 2020 CRISI NOFO to reflect the Biden-Harris Administration's priorities for creating good-paying jobs, improving safety, applying transformative technology, and explicitly addressing climate change and racial equity as discussed in *Section E(1)(c)*. This NOFO also incorporates Non-CRISI Funding.

There are three legislative set-asides for the CRISI funding under this notice:

- (1) Rural Set-Aside—for projects located in Rural Areas,
- (2) Intercity Passenger Rail Set-Aside—for certain intercity passenger rail development projects, and

(3) Capital Improvements for Trespass Prevention Set-Aside—for trespass prevention capital projects.

Additionally, FRA is making Non-CRISI funding available funding for:

(A) Railroad Trespassing Enforcement—for projects for law enforcement strategies for reducing trespassing, and

(B) Railroad Trespassing Suicide Prevention—for the implementation of railroad trespassing suicide prevention programs.

Applicants should state in their applications whether their project falls within one or more of the above set-asides, each as further described in *Section B.1*.

#### *Definitions of Key Terms*

Terms defined in this section are capitalized throughout this NOFO.

a. “Benefit-Cost Analysis” (or “Cost-Benefit Analysis”) is a systematic, data driven, and transparent analysis comparing monetized project benefits and costs, using a no-build baseline and properly discounted present values, including concise documentation of the assumptions and methodology used to produce the analysis; a description of the baseline, data sources used to project outcomes, and values of key input parameters; basis of modeling including spreadsheets, technical memos, etc.; and presentation of the calculations in sufficient detail and transparency to allow the analysis to be reproduced and for sensitivity of results evaluated by FRA. Please refer to the Benefit-Cost Analysis Guidance for Discretionary Grant Programs prior to preparing a BCA at <https://www.transportation.gov/office-policy/transportation-policy/benefit-cost-analysis-guidance>. In addition, please also refer to the BCA FAQs on FRA’s website for rail specific examples of how to apply the BCA Guidance for Discretionary Grant Programs to CRISI applications.

b. “Capital Project” means a project for acquiring, constructing, improving, or inspecting rail equipment, track and track structures, or a rail facility; expenses incidental to the acquisition or Construction including pre-construction activities (such as designing, engineering, location surveying, mapping, acquiring rights-of-way) and related relocation costs, environmental studies, and all work necessary for FRA to approve the project under the National Environmental Policy Act; highway-rail grade crossing improvements; communication and signalization improvements; and rehabilitating, remanufacturing or

overhauling rail rolling stock and rail facilities.<sup>1</sup>

c. “Construction” means the production of fixed works and structures or substantial alterations to such structures or land and associated costs.

d. “Enforcement Activities” means investigating compliance with, and enforcing, rail trespass-related laws.

e. “Final Design (FD)” means design activities following Preliminary Engineering, and at a minimum, includes the preparation of final Construction plans, detailed specifications, and estimates sufficiently detailed to inform project stakeholders (designers, reviewers, contractors, suppliers, etc.) of the actions required to advance the project from design through completion of Construction.

f. “Hot Spot” means a location along the railroad right-of-way where the risk of trespassing or collision as a result of trespassing is high.

g. “Improvement” means repair or enhancement to existing rail infrastructure, or construction of new rail infrastructure, that results in efficiency of the rail system and the safety of those affected by the system.

h. “Intercity Rail Passenger Transportation” means rail passenger transportation, except commuter rail passenger transportation. See 49 U.S.C. 22901(3). In this notice, “Intercity Passenger Rail Service” and “Intercity Passenger Rail Transportation” are equivalent terms to “Intercity Rail Passenger Transportation.”

i. “National Environmental Policy Act (NEPA)” is a Federal law that requires Federal agencies to analyze and document the environmental impacts of a proposed action in consultation with appropriate Federal, state, and local authorities, and with the public. NEPA classes of action include an Environmental Impact Statement (EIS), Environmental Analysis (EA) or Categorical Exclusion (CE). The NEPA class of action depends on the nature of the proposed action, its complexity, and the potential impacts. For purposes of this NOFO, NEPA also includes all related Federal laws and regulations including the Clean Air Act, Section 4(f) of the Department of Transportation Act, Section 7 of the Endangered Species Act, and Section 106 of the National Historic Preservation Act. Additional information regarding FRA’s

<sup>1</sup>For any project that includes purchasing Intercity Passenger Rail rolling stock, applicants are encouraged to use a standardized approach to the procurement of passenger rail equipment, such as the specifications developed by the Next Generation Corridor Equipment Pool Committee or a similar uniform process.

environmental processes and requirements are located at <https://www.fra.dot.gov/environment>.

j. “Outreach Campaign” means any coordinated effort to reach a specific population, in the case of railroad trespassing suicide prevention programs, those who are experiencing or who may experience suicidal thoughts, with the goal of providing assistance. The assistance provided through the Outreach Campaign may take many forms, including but not limited to, advertising of services, identifying and approaching individuals in need, or other methods to recognize the signs of an individual in crisis to prevent suicide.

k. “Planning” means activities that support the development of a state or regional rail plan or a corridor service development plan. Project-specific (e.g., rail station or port improvements) planning is not eligible.

l. “Positive Train Control (PTC) system” is defined by 49 CFR 270.5 to mean a system designed to prevent train-to-train collisions, overspeed derailments, incursions into established work zone limits, and the movement of a train through a switch left in the wrong position, as described in 49 CFR part 236, subpart I.

m. “Preliminary Engineering (PE)” means engineering design to: (1) Define a project, including identification of all environmental impacts, design of all critical project elements at a level sufficient to assure reliable cost estimates and schedules, (2) complete project management and financial plans, and (3) identify procurement requirements and strategies. The PE development process starts with specific project design alternatives that allow for the assessment of a range of rail improvements, specific alignments, and project designs. PE generally occurs concurrently with NEPA and related analyses, and prior to FD and Construction.

n. “Relocation” is defined to mean moving a rail line vertically or laterally to a new location. Vertical Relocation refers to raising above the current ground level or sinking below the current ground level of a rail line. Lateral Relocation refers to moving a rail line horizontally to a new location.

o. “Rural Project” means a project in which all or the majority of the project (determined by the geographic location or locations where the majority of the project funds will be spent) is located in a Rural Area.

p. “Rural Area” is defined in 49 U.S.C. 22907(g)(2) to mean any area not in an urbanized area as defined by the Census Bureau. The Census Bureau

defines Urbanized Area (UA) as an area with a population of 50,000 or more people.<sup>2</sup> Updated lists of UAs as defined by the Census Bureau are available on the Census Bureau website at [http://www2.census.gov/geo/maps/dc10map/UAUC\\_RefMap/ua/](http://www2.census.gov/geo/maps/dc10map/UAUC_RefMap/ua/).

## B. Federal Award Information

### 1. Available Award Amount

The total funding available for awards under this NOFO is \$361,978,796. Should additional funds become available after the release of this NOFO, FRA may elect to award such additional funds to applications received under this NOFO.<sup>3</sup>

Further, certain funding amounts are set-aside for the following purposes under this NOFO:

a. Rural Set-Aside—At least 25 percent of the CRISI funding, or \$93,750,000 will be made available for Rural Projects as required by 49 U.S.C. 22907(g);

b. Intercity Passenger Rail Set-Aside—Not less than \$75 million of the CRISI funding will be made available for projects eligible under 49 U.S.C. 22907(c)(2) that support the development of new intercity passenger rail service routes including alignments for existing routes; and

c. Capital Improvements for Trespass Prevention—Not less than \$25 million of the CRISI funding will be made available for Capital Projects and engineering solutions targeting trespassing.

d. Railroad Trespassing Enforcement Activities—\$2,034,296 in Non-CRISI Funding will be made available for grants supporting Enforcement Activities at Hot Spots within their respective jurisdictions or at areas that demonstrate a rail trespassing problem in their community on FRA-regulated track. This grant funding is limited to hourly wages for law enforcement officials.

e. Railroad Trespassing Suicide Prevention—\$207,000 in Non-CRISI Funding will be made available for grants to help implement FRA's Trespasser Prevention Strategy through grants funding the implementation or expansion of targeted Outreach Campaigns to reduce the number of railroad-related suicides that involve

<sup>2</sup> See 74 FR 53030, 53043 (August 24, 2011) available at <https://www2.census.gov/geo/pdfs/reference/fedreg/fedregv76n164.pdf>.

<sup>3</sup> Of the \$375,000,000 in CRISI funding made available in the 2021 Appropriation, \$11,512,500 will be separately made available for Special Transportation Circumstances and \$3,750,000 will be set aside for award and program oversight.

railroad trespassing on FRA-regulated track.<sup>4</sup>

### 2. Award Size

There are no predetermined minimum or maximum dollar thresholds for CRISI awards. For Non-CRISI funding, the maximum award for railroad trespass law enforcement grants will be capped at \$120,000, and the maximum award for railroad trespass suicide prevention grants will be capped at \$100,000. FRA anticipates making multiple awards with the available funding. FRA may not be able to award grants to all eligible applications even if they meet or exceed the stated evaluation criteria (see *Section E*, Application Review Information). Projects may require more funding than is available. FRA encourages applicants to propose projects or components of projects that have operational independence and that can be completed and implemented with funding under this NOFO as a part of the total project cost together with other, non-Federal sources.

### 3. Award Type

FRA will make awards for projects selected under this notice through grant agreements and/or cooperative agreements. Grant agreements are used when FRA does not expect to have substantial Federal involvement in carrying out the funded activity. Cooperative agreements allow for substantial Federal involvement in carrying out the agreed upon investment, including technical assistance, review of interim work products, and increased program oversight. The funding provided under this NOFO will be made available to grantees on a reimbursable basis. Applicants must certify that their expenditures are allowable, allocable, reasonable, and necessary to the approved project before seeking reimbursement from FRA. Additionally, the grantee is expected to expend matching funds at the required percentage concurrent with Federal funds throughout the life of the project. See an example of standard terms and conditions for FRA grant awards at:

<sup>4</sup> FRA made Safety and Operations Account funding available in FY 2019 and FY 2020 under separate NOFOs for the Railroad Trespassing Enforcement Grant Program and the Railroad Trespassing Suicide Prevention Grant Program, as part of its National Trespass Prevention Strategy. FRA is combining Non-CRISI funds for those trespass prevention programs into the CRISI NOFO to leverage Federal funding to comprehensively address trespassing safety issues through awards for infrastructure investment combined with safety programs including enforcement and outreach activities. If funding is not requested under B.1(d) or (e), FRA may award such funds for other eligible trespass prevention purposes.

<https://www.fra.dot.gov/eLib/Details/L19057>. This template is subject to revision.

### 4. Concurrent Applications

DOT and FRA may be concurrently soliciting applications for transportation infrastructure projects for several financial assistance programs. Applicants may submit applications requesting funding for a particular project to one or more of these programs. In the application for funding under this NOFO, applicants must indicate the other programs and, if applicable, the other CRISI or trespass prevention NOFOs to which they submitted or plan to submit an application for funding the entire project or certain project components, as well as highlight new or revised information in the application responsive to this NOFO that differs from the previously submitted application(s).

## C. Eligibility Information

This section of the notice explains applicant eligibility, cost sharing and matching requirements, project eligibility, and project component operational independence. Applications that do not meet the requirements in this section will be ineligible for funding. Instructions for submitting eligibility information to FRA are detailed in *Section D* of this NOFO.

### 1. Eligible Applicants

The following entities are eligible applicants under this notice:

- a. A State;
- b. A group of States;
- c. An Interstate Compact;<sup>5</sup>
- d. A public agency or publicly chartered authority established by one or more States;<sup>6</sup>
- e. A political subdivision of a State;
- f. Amtrak or another rail carrier that provides Intercity Rail Passenger Transportation (as defined in 49 U.S.C. 24102);
- g. A Class II railroad or Class III railroad (as those terms are defined in 49 U.S.C. 20102) or a holding company of a Class II or III railroad;<sup>7</sup>
- h. Any rail carrier or rail equipment manufacturer in partnership with at least one of the entities described in paragraph (a) through (e);<sup>8</sup>

<sup>5</sup> Interstate Compacts are ineligible for Non-CRISI funding.

<sup>6</sup> See Section D(2)(a)(iv) for supporting documentation required to demonstrate eligibility under this eligibility category.

<sup>7</sup> See Section D(2)(a)(iv) for supporting documentation required to demonstrate eligibility under this eligibility category.

<sup>8</sup> See Section D(2)(a)(iv) for supporting information required to demonstrate eligibility under this eligibility category.

i. The Transportation Research Board together with any entity with which it contracts in the development of rail-related research, including cooperative research programs;

j. A University transportation center engaged in rail-related research; or

k. A non-profit labor organization representing a class or craft of employees of rail carriers or rail carrier contractors.

Applications must identify an eligible applicant as the lead applicant. The lead applicant serves as the primary point of contact for the application, and if selected, as the grantee. Eligible applicants may reference entities that are not eligible applicants in an application as a project partner.

## 2. Cost Sharing or Matching

The Federal share of total costs for CRISI projects funded under this notice will not exceed 80 percent, though FRA will provide selection preference to applications where the proposed Federal share of total project costs is 50 percent or less. For Non-CRISI funding, the Federal share of total project costs can be up to 100 percent. The estimated total cost of a project must be based on the best available information, including engineering studies, studies of economic feasibility, environmental analyses, and information on the expected use of equipment and/or facilities.

Additionally, and to the extent practicable, in preparing estimates of total project costs, applicants may refer to FRA's cost estimate guidance documentation, "Capital Cost Estimating: Guidance for Project Sponsors," which is available at: <https://www.fra.dot.gov/Page/P0926>.

The minimum 20 percent non-Federal match for CRISI-funded projects may be composed of public sector (e.g., state or local) and/or private sector funding. FRA will not consider any Federal financial assistance<sup>9</sup> nor any non-Federal funds already expended (or otherwise encumbered) toward the matching requirement, unless compliant with 2 CFR part 200. In-kind contributions, including the donation of services, materials, and equipment, may be credited as a project cost, in a uniform manner consistent with 2 CFR 200.306.

Amtrak or another rail carrier may use ticket and other non-Federal revenues generated from its operations and other sources as matching funds. Applicants must identify the source(s) of its matching and other funds, and must clearly and distinctly reflect these funds as part of the total project cost.

<sup>9</sup> See Section D(2)(a)(iii) for supporting information required to demonstrate eligibility of Federal funds for use as match.

Before applying, applicants should carefully review the principles for cost sharing or matching in 2 CFR 200.306. See Section D(2)(a)(iii) for required application information on non-Federal match and Section E for further discussion of FRA's consideration of matching funds in the review and selection process. FRA will approve pre-award costs consistent with 2 CFR 200.458, as applicable. See Section D(6). Cost sharing or matching may be used only for authorized Federal award purposes.

## 3. Other

### a. Project Eligibility

The following rail projects within the United States that improve the safety, efficiency, and/or reliability of passenger and/or freight rail transportation systems are eligible for funding under 49 U.S.C. 22907 and this NOFO.

i. Deployment of railroad safety technology, including positive train control and rail integrity inspection systems.<sup>10</sup> PTC examples include: Back office systems; wayside, communications and onboard hardware equipment; software; equipment installation; spectrum; any component, testing and training for the implementation of PTC systems; and interoperability. Maintenance and operating expenses incurred after a PTC system is placed in revenue service are ineligible. Railroad safety technology and rail integrity inspection system examples include broken rail detection and warning systems; track intrusion systems; and hot box detectors, wheel impact load detectors, and other safety improvements.<sup>11</sup>

ii. A capital project as defined in 49 U.S.C. 22901(2) relating to Intercity Passenger Rail Service, except that such projects are not required to be in a State rail plan under the CRISI Program. Examples include acquisition, improvement, or rehabilitation of railroad equipment (locomotives and rolling stock); railroad infrastructure (grade crossings, catenary, and signals); and rail facilities (yards, passenger stations, or maintenance and repair shops).

<sup>10</sup> Pursuant to the 2021 Appropriation, 49 U.S.C. 22905(f) shall not apply to projects for the implementation of positive train control systems, otherwise eligible under 49 U.S.C. 22907(c)(1). "Maintenance and operations costs incurred after a PTC system is placed in revenue service are not eligible for CRISI funding. . . ." 166 Cong. Rec. H8820 (2020) (explanatory statement accompanying the 2021 Appropriation).

<sup>11</sup> Only costs for FD and Construction project stages and forward are eligible within this project eligibility category.

iii. A Capital Project necessary to address congestion challenges affecting rail service. Examples include projects addressing congestion that increase rail capacity; add or upgrade the condition, clearances, and capacity of rail mainlines; enhance capacity and service with less conflict between freight and Intercity Passenger Rail; reduce delays and risks associated with highway-rail grade crossings; and provide more effective rail equipment.

iv. A Capital Project necessary to reduce congestion and facilitate ridership growth in Intercity Passenger Rail Transportation along heavily traveled rail corridors. Examples include projects addressing congestion that improve stations; increase rail capacity; reduce conflict between freight and Intercity Passenger Rail; reduce delays and risks associated with highway-rail grade crossings; and provide more effective rail equipment.

v. A highway-rail grade crossing improvement project, including installation, repair, or improvement of grade separations, railroad crossing signals, gates, and related technologies; highway traffic signalization; highway lighting and crossing approach signage; roadway improvements such as medians or other barriers; railroad crossing panels and surfaces; and safety engineering improvements to reduce risk in quiet zones or potential quiet zones.

vi. A rail line Relocation and Improvement project. Examples include projects that: Improve the route or structure of a rail line by replacing degraded track; enhance/relocate railroad switching operations; add or lengthen passing tracks to increase capacity; improve interlockings; and relocate rail lines to alleviate congestion, and eliminate frequent rail service interruptions.

vii. A Capital Project to improve short-line or regional railroad infrastructure. Examples include projects for normalized capital replacement, increasing capacity, as well as replacing aging locomotive fleets with newer, more energy efficient technologies that produce less harmful emissions.

viii. The preparation of regional rail and corridor service development plans and corresponding environmental analyses. (See the examples under Track 1 and 2 below in Subsections C(3)(b)(i)-(ii) as they apply to regional and corridor rail Planning).

ix. A project necessary to enhance multimodal connections or facilitate service integration between rail service and other modes, including between Intercity Rail Passenger Transportation

and intercity bus service or commercial air service. Examples include intermodal transportation facilities projects that encourage joint scheduling, ticketing, and/or baggage handling; freight rail intermodal connections; and rail projects improving access to ports.

x. The development and implementation of a safety program or institute designed to improve rail safety. Examples include employee training; payment of applicable law enforcement wages to undertake trespass Enforcement Activities;<sup>12</sup> Outreach Campaigns for reducing suicides that involve railroad trespassing;<sup>13</sup> and public safety outreach and education.

xi. Any research that the Secretary considers necessary to advance any particular aspect of rail related capital, operations, or safety improvements.

xii. Workforce development and training activities, coordinated to the extent practicable with the existing local training programs supported by the Department of Transportation, the Department of Labor, and the Department of Education.

Applicants that intend to charge indirect costs through the use of a negotiated indirect cost rate must have a current, signed, Federally-approved indirect cost rate agreement. Applicants that do not have a current Federally-approved indirect cost rate may elect to charge a *de minimis* rate of 10 percent of modified total direct costs. This includes state and local governments that have never negotiated an indirect cost rate with the federal government and receive less than \$35 million in direct federal funding per year. Organizations that wish to negotiate an

<sup>12</sup> Enforcement Activities may include investigating incidents or reports of trespassing, as well as providing warnings and citations to the trespassers for violating rail-related trespass laws. The hourly rate for law enforcement officers performing Enforcement Activities should be limited to the officer's regular and overtime wage rate (e.g., 1.5 times the base rate). Administrative costs are capped at 1% of the award. Projects must be completed within the twelve-month period of performance under the grant.

Court costs and equipment are not eligible. Only new scope (e.g., hourly wages incurred during the project performance period for a grant awarded under this NOFO) is eligible for funding under this NOFO.

<sup>13</sup> The implementation or expansion of an Outreach Campaign for reducing suicides that involve railroad trespassing may involve training staff to identify individuals at risk and intervene, raising awareness of services via signage or public awareness campaigns, or implementing other strategies. Projects must be specifically tailored to directly reduce railroad suicide incidents. While an Outreach Campaign may have applicability outside of the rail domain, projects must be intended to directly reduce railroad suicide incidents. At least 1 mile of FRA-regulated railroad track must be within the boundaries of the planned outreach activities.

indirect cost rate should contact FRA's Office of the Chief Financial Officer at [FRA.CFO@dot.gov](mailto:FRA.CFO@dot.gov). Sub-recipients may charge indirect costs using their federally-approved indirect cost rate, a negotiated indirect cost rate between the pass-through entity and the sub-recipient, or a *de minimis* rate of 10 percent.

As a condition to making a grant with CRISI Funding under this NOFO, FRA requires that a written agreement exist between the applicant and the railroad regarding use and ownership consistent with 49 U.S.C. 22905(c)(1) for projects using rights-of-way owned by a railroad that is not the applicant.

#### b. Project Tracks for Eligible Projects

Applicants are not limited in the number of projects for which they seek funding. FRA will not limit eligible projects from consideration for funding for planning, environmental, engineering, design, and construction elements of the same project in the same application. Applicants are allowed to include multiple phases of a project in the same application. However, depending on the project, applications for multiple phases of project development may not contain sufficient detail with regards to scope, schedule, or budget for all phases of the application to compete well in the application review process.<sup>14</sup>

An applicant must identify one or more of the following four tracks for an eligible project: Track 1—Planning; Track 2—PE/NEPA; Track 3—FD/Construction; or Track 4—Research, Safety Programs and Institutes.

#### i. Track 1—Planning

Track 1 consists of eligible rail Planning projects. Examples include the technical analyses and associated environmental analyses that support the development of state rail plans, regional rail plans, and corridor service development plans, including: Identification of alternatives, rail network Planning, market analysis, travel demand forecasting, revenue forecasting, railroad system design, railroad operations analysis and simulation, equipment fleet Planning, station and access analysis, conceptual engineering and capital programming,

<sup>14</sup> The scope, schedule, and budget necessary to implement a project, as well as the definition of the project's potential benefits, are typically informed by the work conducted in prior phases of project development (e.g., the specific elements of an FD/Construction project and their cost estimates are developed and refined through PE). The evaluation criteria for the CRISI program (see Section E of this NOFO) considers the level of detail contained in the applicant's proposed scope of work and readiness for the project to be implemented.

operating and maintenance cost forecasting, capital replacement and renewal analysis, and economic analysis. Project-specific (e.g., rail station or port improvements) planning is not an eligible Track 1 project.

#### ii. Track 2—PE/NEPA

Track 2 consists of eligible PE/NEPA projects. PE examples include: PE drawings and specifications (scale drawings at the 30 percent design level, including track geometry as appropriate); design criteria, schematics and/or track charts that support the development of PE; and work that can be funded in conjunction with developing PE, such as operations modeling, surveying, project work/management plans, preliminary cost estimates, and preliminary project schedules. PE/NEPA projects funded under this NOFO must be sufficiently developed to support FD or Construction activities.

#### iii. Track 3—FD/Construction

Track 3 consists of eligible projects for FD, Construction, and project implementation and deployment activities. Applicants must complete all necessary Planning, PE and NEPA requirements for FD/Construction projects. FD funded under this track must resolve remaining uncertainties or risks associated with changes to design scope; address procurement processes; and update and refine plans for financing the project or program to reflect accurately the expected year-of-expenditure costs and cash flow projections. Applicants selected for funding for FD/Construction must demonstrate the following to FRA's satisfaction:

(A) PE is completed for the proposed project, resulting in project designs that are reasonably expected to conform to all regulatory, safety, security, and other design requirements, including those under the Americans with Disabilities Act (ADA);

(B) NEPA is completed for the proposed project;

(C) Signed agreements with key project partners, including infrastructure-owning entities; and

(D) A project management plan is in place for managing the implementation of the proposed project, including the management and mitigation of project risks.

FD examples include drawings at the 100 percent Design Level, interim design drawings that support development (e.g., drawings at the 60 percent Design Level), project work/project management plan, cost estimates, project schedules, and right-



of-way acquisition and relocation plans. Construction examples include additions, improvements, replacements, renovations and/or repairs to track, bridge, station, rail yard, signal, and communication system infrastructure, or other railroad safety technology.

iv. Track 4—Research, Safety Programs and Institutes (Non-Railroad Infrastructure)

Track 4 consists of projects not falling within Tracks 1–3 including workforce development activities, research, safety programs or institutes designed to improve rail safety that clearly demonstrate the expected positive impact on rail safety. Sufficient detail must be provided on what the project will accomplish, as well as the applicant’s capability to achieve the proposed outcomes. Examples include initiatives for improving rail safety, training, payment of applicable law enforcement wages to undertake trespass Enforcement Activities, Outreach Campaigns for reducing suicides that involve railroad trespassing, and education.

c. Project Component Operational Independence

If an applicant requests funding for a project that is a component or set of components of a larger project, the project component(s) must be attainable with the award amount, together with other funds as necessary, obtain operational independence, and must comply with all eligibility requirements described in Section C.

In addition, the component(s) must be capable of being independently analyzed, as determined by FRA, under NEPA (i.e., have independent utility, connect logical termini, if applicable, and not restrict the consideration of alternatives for other reasonably foreseeable rail projects).

d. Rural Project

FRA will consider a project to be in a Rural Area if all or the majority of the project (determined by geographic location(s) where the majority of the project funds will be spent) is located in a Rural Area. However, in the event FRA elects to fund a component of the

project, then FRA will reexamine whether the project is in a Rural Area.

D. Application and Submission Information

Required documents for the application are outlined in the following paragraphs. Applicants must complete and submit all components of the application. See Section D(2) for the application checklist. FRA welcomes the submission of additional relevant supporting documentation, such as planning, engineering and design documentation, and letters of support from partnering organizations, all of which will not count against the Project Narrative 25-page limit.

1. Address To Request Application Package

Applicants may access the application through www.grants.gov. Applicants must submit all application materials in their entirety through www.Grants.gov no later than 5:00 p.m. ET, on November 29, 2021. FRA reserves the right to modify this deadline. General information for submitting applications through Grants.gov can be found at: https://www.fra.dot.gov/Page/P0270. FRA is committed to ensuring that information is available in appropriate alternative formats to meet the requirements of persons who have a disability. If you require an alternative version of files provided, please contact Lou Lorello, Office of the Chief Financial Officer, Federal Railroad Administration, 1200 New Jersey Avenue SE, Room W36–111, Washington, DC 20590; email: lou.lorello@dot.gov; phone: 202–493–8026.

2. Content and Form of Application Submission

FRA strongly advises applicants to read this section carefully. Applicants must submit all required information and components of the application package to be considered for funding.

Required documents for an application package are outlined in the checklist below.

- i. Project Narrative (see D.2.a)
ii. Statement of Work (see D.2.b.i)
iii. Benefit-Cost Analysis (see D.2. b.ii)
iv. SF424—Application for Federal Assistance

- v. Either: SF 424A—Budget Information for Non-Construction projects (required for Tracks 1, 2 and 4) or SF 424C—Budget Information for Construction (required for any application that includes Track 3)
vi. Either: SF 424B—Assurances for Non-Construction projects (required for Tracks 1, 2 and 4) or SF 424D—Assurances for Construction (required for any application that includes Track 3)
vii. FRA’s Additional Assurances and Certifications
viii. SF LLL—Disclosure of Lobbying Activities
a. Project Narrative

This section describes the minimum content required in the Project Narrative of the grant application. The Project Narrative must follow the basic outline below to address the program requirements and assist evaluators in locating relevant information.

- I. Cover Page ..... See D.2.a.i
II. Project Summary ..... See D.2.a.ii
III. Project Funding ..... See D.2.a.iii
IV. Applicant Eligibility ... See D.2.a.iv
V. Project Eligibility ..... See D.2.a.v
VI. Detailed Project Description. See D.2.a.vi
VII. Project Location ..... See D.2.a.vii
VIII. Evaluation and Selection Criteria. See D.2.a.viii
IX. Project Implementation and Management. See D.2.a.ix
X. Planning Readiness ..... See D.2.a.x
XI. Environmental Readiness. See D.2.a.xi

The above content must be provided in a narrative statement submitted by the applicant. The Project Narrative may not exceed 25 pages in length (excluding cover pages, table of contents, and supporting documentation). FRA will not review or consider Project Narratives beyond the 25-page limitation. If possible, applicants should submit supporting documents via website links rather than hard copies. If supporting documents are submitted, applicants must clearly identify the page number(s) of the relevant portion in the Project Narrative supporting documentation. The Project Narrative must adhere to the following outline.

- i. Cover Page: Include a cover page that lists the following elements in a table:

Table with 2 columns: Question/Field and Answer/Value. Includes fields for Project Title, Applicant, Project Track, Federal grant application status, Rural Project status, and percentage of cost in Rural Area.



Is this a project eligible under 49 U.S.C. 22907(c)(2) that supports the development of new intercity passenger rail service routes including alignments for existing routes?	Yes/No.
Is this for a Capital Project or engineering solution targeting trespassing?	Yes/No.
Is this for a safety program to reduce trespassing through targeted law Enforcement Activities?	Yes/No.
Is this for a safety program to implement or expand an Outreach Campaign for reducing railroad trespassing suicide?	Yes/No.
City(ies), State(s) where the project is located .....	
Urbanized Area where the project is located .....	
Population of Urbanized Area .....	
Is the project currently programmed in the: .....	Yes/No (If yes, please specify in which plans the project is currently programmed).
State rail plan, State Freight Plan, TIP, STIP, MPO Long Range Transportation Plan, State Long Range Transportation Plan?	

ii. *Project Summary:* Provide a brief 4–6 sentence summary of the proposed project and what the project will entail. Include challenges the proposed project aims to address, and summarize the intended outcomes and anticipated benefits that will result from the proposed project.

iii. *Project Funding:* Indicate in table format the amount of Federal funding requested, the proposed non-Federal match, identifying contributions from the private sector if applicable, and total project cost. Describe the non-Federal funding arrangement, including multiple sources of non-Federal funding

if applicable. Include funding commitment letters outlining funding agreements, as attachments or in an appendix. If Federal funding is proposed as match, provide the applicant’s determination of eligibility for such use and the legal basis for that determination. Identify any specific project components that the applicant proposes for partial project funding. If all or a majority of a project is located in a Rural Area, identify the Rural Area(s) and estimated percentage of project costs that will be spent in the Rural Area. Identify any previously incurred costs, as well as other sources

of Federal funds committed to the project and any pending Federal requests. Also, note if the requested Federal funding under this NOFO or other programs must be obligated or spent by a certain date due to dependencies or relationships with other Federal or non-Federal funding sources, related projects, law, or other factors. If applicable, provide the description and estimated value of any proposed in-kind contributions, and demonstrate how the in-kind contributions meet the requirements in 2 CFR 200.306.

*Example Project Funding Table:*

Task #	Task name/project component	Cost	Percentage of total cost
1			
2			
Total Project Cost			
Federal Funds Received from Previous Grant			
Federal Funding Under this NOFO Request			
Non-Federal Funding/Match		Cash: In-Kind:	
Portion of Non-Federal Funding from the Private Sector			
Portion of Total Project Costs Spent in a Rural Area			
Pending Federal Funding Requests			

iv. *Applicant Eligibility:* Explain how the applicant meets the applicant eligibility criteria outlined in Section C of this notice. For public agencies and publicly chartered authorities established by one or more states, the explanation must include citations to the applicable enabling legislation.

If the applicant is eligible under 49 U.S.C. 22907(b)(8) as a rail carrier or rail equipment manufacturer in partnership with at least one of the other eligible entities, the applicant should explain the partnership and each entity’s contribution to the partnership. For a holding company of a class II or Class III railroad, the applicant must demonstrate its status as a holding

company and percentage of ownership of an operating Class II or III railroad with supporting documentation.

v. *Project Eligibility:* Identify which project eligibility category the project is eligible under in Section C(3) of this notice, and explain how the project meets the project eligibility criteria.

vi. *Detailed Project Description:* Include a detailed project description that expands upon the brief project summary. This detailed description should provide, at a minimum, background on the challenges the project aims to address; the expected users and beneficiaries of the project, including all railroad operators; the specific components and elements of

the project; and any other information the applicant deems necessary to justify the proposed project. If applicable, explain how the project will benefit communities in Rural Areas. An applicant should specify whether it is seeking funding for a project that has already received Federal financial assistance, and if applicable, explain how the new scope proposed to be funded under this NOFO relates to the previous scope.

For all projects, applicants must provide information about proposed performance measures, as discussed in Section F(3)(c) and required in 2 CFR 200.301 and 49 U.S.C. 22907(f).

(A) Grade crossing information, if applicable: For any project that includes grade crossing components, cite specific DOT National Grade Crossing Inventory information, including the railroad that owns the infrastructure (or the crossing owner, if different from the railroad), the primary railroad operator, the DOT crossing inventory number, and the roadway at the crossing. Applicants can search for data to meet this requirement at the following link: <http://safetydata.fra.dot.gov/OfficeofSafety/default.aspx>. In addition, if applicable, applicants must cite the page number in the grade crossing action plan where the grade crossing is referenced.

(B) Heavily traveled rail corridor information, if applicable: For any project eligible under the eligibility category in *Subsection C(3)(a)(iv)*, that reduces congestion and facilitates ridership growth in Intercity Passenger Rail Transportation, describe how the project is located on a heavily traveled rail corridor.

(C) PTC information, if applicable: For any project that includes deploying PTC systems, applicants must:

1. Document submission of a Positive Train Control Implementation Plan (PTCIP) to FRA pursuant to either *49 U.S.C. 20157(a)* or *49 CFR part 236, subpart I* (FRA's PTC regulations);
2. Document that it is a tenant on one or more host railroads that submitted a PTCIP to FRA; or
3. Document how the proposed project will assist in the deployment (*i.e.*, installation and/or full implementation) of a PTC system.

(D) Workforce development and training information, if applicable: For any project that includes workforce development, applicants must document to the extent practicable similar existing local training programs supported by the Department of Transportation, the Department of Labor, and/or the Department of Education.

(E) Pedestrian trespasser casualty information, if applicable: Provide documentation indicating whether the projects are located in counties with the most pedestrian trespasser casualties as identified in *FRA's National Strategy to Prevent Trespassing on Railroad Property*.

(F) Railroad trespassing law enforcement strategies, if applicable: For law enforcement agencies seeking funding to pay law enforcement wages to undertake trespass Enforcement Activities, applicants must provide a detailed description of the proposed Enforcement Activities, including (but not limited to) data on trespass incidents and casualties, strategies to

target Hot Spots identified by geospatial data, and expected reductions in trespass incidents stemming from the Enforcement Activities.

(G) Railroad trespassing suicide prevention outreach campaign, if applicable: For any project seeking to implement an Outreach Campaign to reduce suicide by railroad, applicants must provide a detailed description of the proposed outreach campaign, including (but not limited to) relevant data on rail-related suicides in the project location, the manner and extent to which trespass suicide is expected to be reduced, and examples of prior efforts to address rail-related suicide.

vii. *Project Location*: Include geospatial data for the project, as well as a map of the project's location. On the map, include the Congressional districts and Rural Area boundaries, if applicable, in which the project will take place. For projects (other than those projects for the implementation of positive train control systems otherwise eligible under *49 U.S.C. 22907(c)(1)*) that are on a shared corridor.

viii. *Evaluation and Selection Criteria*: Include a thorough discussion of how the proposed project meets all the evaluation criteria and selection criteria, as outlined in *Section E* of this notice. If an application does not sufficiently address the evaluation and selection criteria, it is unlikely to be a competitive application. For projects (other than those projects for the implementation of positive train control systems otherwise eligible under *49 U.S.C. 22907(c)(1)*) that are on a shared corridor with commuter railroad passenger transportation, demonstrate how funding the proposed project would be a reasonable investment in Intercity Passenger Rail Transportation and/or freight rail transportation.

ix. *Project Implementation and Management*: Describe proposed project implementation and project management arrangements. Include descriptions of the expected arrangements for project contracting, contract oversight and control, change-order management, risk management, and conformance to Federal requirements for project progress reporting (see <https://www.fra.dot.gov/Page/P0274>). Describe past experience in managing and overseeing similar projects.

x. *Planning Readiness for Tracks 2 and 3 (PE/NEPA and FD/Construction Projects)*: Provide information about the planning process that analyzed the investment needs and service objectives of the project. If applicable, cite sources of this information from a service development plan, State or regional rail

plan, or similar planning document where the project has been identified for solving a specific existing transportation problem, and makes the case for investing in the proposed solution.

xi. *Environmental Readiness for Track 3 FD/Construction Projects*: If the NEPA process is complete, an applicant should indicate the date of completion, and provide a website link or other reference to the documents demonstrating compliance with NEPA, which might include a final CE, Finding of No Significant Impact, or Record of Decision. If the NEPA process is not yet underway, the application should state this. If the process is underway, but is not complete, the application should detail the type of NEPA review underway, where the project is in the process, and indicate the anticipated date of completion of all NEPA and related milestones.

If the last agency action with respect to NEPA documents occurred more than three years before the application date, the applicant should describe why the project has been delayed and include a proposed approach for verifying, and if necessary, updating this information in accordance with applicable NEPA requirements.

#### b. Additional Application Elements

Applicants must submit:

i. A Statement of Work (SOW) addressing the scope, schedule, and budget for the proposed project if it were selected for award. The SOW must contain sufficient detail so FRA, and the applicant, can understand the expected outcomes of the proposed work to be performed and monitor progress toward completing project tasks and deliverables during a prospective grant's period of performance. Applicants must use FRA's standard SOW, schedule, and budget templates to be considered for award. The templates are located at <https://www.fra.dot.gov/Page/P0325>. When preparing the budget, the total cost of a project must be based on the best available information as indicated in cited references that include engineering studies, studies of economic feasibility, environmental analyses, and information on the expected use of equipment or facilities.

ii. A Benefit-Cost Analysis (BCA), as an appendix to the Project Narrative for each project submitted by an applicant. The BCA must demonstrate in economic terms the merits of investing in the proposed project. The BCA for Track 2—PE/NEPA projects should be for the underlying project, not the PE/NEPA work itself. The project narrative should summarize the project's benefits.

Benefits may apply to existing and new rail users, as well as users of other modes of transportation. In some cases, benefits may be applied to populations in the general vicinity of the project area. Improvements to multimodal connections and shared-use rail corridors may benefit all users involved. Benefits may be quantified for savings in safety costs, reduced costs from disruption of service, maintenance costs, reduced travel time, emissions reductions, and increases in capacity or ability to offer new types of freight or passenger services. Applicants may also describe other categories of benefits that are difficult to quantify such as noise reduction, environmental impact mitigation, improved quality of life, or reliability of travel times. All benefits claimed for the project must be clearly tied to the expected outcomes of the project. Please refer to the Benefit-Cost Analysis Guidance for Discretionary Grant Programs prior to preparing a BCA at <https://www.transportation.gov/office-policy/transportation-policy/benefit-cost-analysis-guidance>. In addition, please also refer to the BCA FAQs on FRA's website for some rail specific examples of how to apply the BCA Guidance for Discretionary Grant Programs to CRISI funding.

For Tracks 1 and 4—Applicants are required to document project benefits. Any subjective estimates of benefits and costs should be quantified whenever possible, and applicants should provide appropriate evidence to support their subjective estimates. Estimates of benefits should be presented in monetary terms whenever possible; if a monetary estimate is not possible, then a quantitative estimate (in physical, non-monetary terms, such as crash or employee casualty rates, ridership estimates, emissions levels, energy efficiency improvements, etc.) should be provided. At a minimum, qualitatively describe the project benefits.

iii. Environmental compliance documentation, as applicable, if a website link is not cited in the Project Narrative.

iv. SF 424—Application for Federal Assistance;

v. SF 424A—Budget Information for Non-Construction or SF 424C—Budget Information for Construction;

vi. SF 424B—Assurances for Non-Construction or SF 424D—Assurances for Construction;

vii. FRA's Additional Assurances and Certifications; and

viii. SF LLL—Disclosure of Lobbying Activities.

ix. A statement that the lead applicant has a system for procuring property and services under a Federal award under

this NOFO that supports the provisions in 2 CFR 200 Subpart D-Procurement Standards at 2 CFR 200.317–326 and 2 CFR 1201.317.

x. A statement indicating whether the applicant or any of its principals:

a. is presently suspended, debarred, voluntarily excluded, or disqualified;

b. has been convicted within the preceding three years of any of the offenses listed in 2 CFR 180.800(a); or had a civil judgment rendered against the organization or the individual for one of those offenses within that time period;

c. is presently indicted for, or otherwise criminally or civilly charged by a governmental entity (Federal, state or local) with, commission of any of the offenses listed in 2 CFR 180.800(a); or,

d. has had one or more public transactions (Federal, state, or local) terminated within the preceding three years for cause or default (including material failure to comply).

xi. FRA F 251, Applicant Financial Capability Questionnaire.

Forms needed for the electronic application process are at [www.Grants.gov](http://www.Grants.gov).

### c. Post-Selection Requirements

See *subsection F(2)* of this notice for post-selection requirements.

### 3. Unique Entity Identifier, and System for Award Management (SAM)

To apply for funding through *Grants.gov*, applicants must be properly registered in SAM before submitting an application, provide a valid unique entity identifier, and continue to maintain an active SAM registration all as described in detail below. Complete instructions on how to register and submit an application can be found at [www.Grants.gov](http://www.Grants.gov). Registering with *Grants.gov* is a one-time process; however, it can take up to several weeks for first-time registrants to receive confirmation and a user password. FRA recommends that applicants start the registration process as early as possible to prevent delays that may preclude submitting an application package by the application deadline. Applications will not be accepted after the due date. Delayed registration is not an acceptable justification for an application extension.

FRA may not make a grant award to an applicant until the applicant has complied with all applicable Data Universal Numbering System (DUNS) and SAM requirements, and if an applicant has not fully complied with the requirements by the time the FRA is ready to make a Federal award, FRA may determine that the applicant is not

qualified to receive a Federal award and use that determination as a basis for making a Federal award to another applicant. (Please note that if a Dun & Bradstreet DUNS number must be obtained or renewed, this may take a significant amount of time to complete). Late applications that are the result of a failure to register or comply with *Grants.gov* applicant requirements in a timely manner will not be considered. If an applicant has not fully complied with the requirements by the submission deadline, the application will not be considered. To submit an application through *Grants.gov*, applicants must:

#### a. Obtain a DUNS Number

A DUNS number is required for *Grants.gov* registration. The Office of Management and Budget requires that all businesses and nonprofit applicants for Federal funds include a DUNS number in their applications for a new award or renewal of an existing award. A DUNS number is a unique nine-digit sequence recognized as the universal standard for the government in identifying and keeping track of entities receiving Federal funds. The identifier is used for tracking purposes and to validate address and point of contact information for Federal assistance applicants, recipients, and subrecipients. The DUNS number will be used throughout the grant life cycle. Obtaining a DUNS number is a free, one-time activity. Applicants may obtain a DUNS number by calling 1–866–705–5711 or by applying online at <http://www.dnb.com/us>.

#### b. Register With the SAM at [www.SAM.gov](http://www.SAM.gov)

All applicants for Federal financial assistance must maintain current registrations in the SAM database. An applicant must be registered in SAM to successfully register in *Grants.gov*. The SAM database is the repository for standard information about Federal financial assistance applicants, recipients, and subrecipients. Organizations that have previously submitted applications via *Grants.gov* are already registered with SAM, as it is a requirement for *Grants.gov* registration. Please note, however, that applicants must update or renew their SAM registration at least once per year to maintain an active status. Therefore, it is critical to check registration status well in advance of the application deadline. If an applicant is selected for an award, the applicant must maintain an active SAM registration with current information throughout the period of the award, including information on a

recipient's immediate and highest level owner and subsidiaries, as well as on all predecessors that have been awarded a Federal contract or grant within the last three years, if applicable. Information about SAM registration procedures is available at [www.sam.gov](http://www.sam.gov).

c. Create a Grants.gov Username and Password

Applicants must complete an Authorized Organization Representative (AOR) profile on [www.Grants.gov](http://www.Grants.gov) and create a username and password. Applicants must use the organization's DUNS number to complete this step. Additional information about the registration process is available at: <https://www.grants.gov/web/grants/applicants/organization-registration.html>.

d. Acquire Authorization for Your AOR From the E-Business Point of Contact (E-Biz POC)

The E-Biz POC at the applicant's organization must respond to the registration email from [Grants.gov](http://www.Grants.gov) and login at [www.Grants.gov](http://www.Grants.gov) to authorize the applicant as the AOR. Please note there can be more than one AOR for an organization.

e. Submit an Application Addressing All Requirements Outlined in This NOFO

If an applicant experiences difficulties at any point during this process, please call the [Grants.gov](http://www.Grants.gov) Customer Center Hotline at 1-800-518-4726, 24 hours a day, 7 days a week (closed on Federal holidays). For information and instructions on each of these processes, please see instructions at: <http://www.grants.gov/web/grants/applicants/apply-for-grants.html>.

4. Submission Dates and Times

Applicants must submit complete applications to [www.Grants.gov](http://www.Grants.gov) no later than 5:00 p.m., ET, November 29, 2021. FRA reviews [www.Grants.gov](http://www.Grants.gov) information on the dates and times of applications submitted to determine timeliness of submissions. Late applications will be neither reviewed nor considered. Delayed registration is not an acceptable reason for late submission. In order to apply for funding under this announcement, all applicants are expected to be registered as an organization with [Grants.gov](http://www.Grants.gov). Applicants are strongly encouraged to apply early to ensure all materials are received before this deadline.

To ensure a fair competition of limited discretionary funds, the following conditions are not valid reasons to permit late submissions: (1)

Failure to complete the [Grants.gov](http://www.Grants.gov) registration process before the deadline; (2) failure to follow [Grants.gov](http://www.Grants.gov) instructions on how to register and apply as posted on its website; (3) failure to follow all instructions in this NOFO; and (4) technical issues experienced with the applicant's computer or information technology environment.

5. Intergovernmental Review

Intergovernmental Review is required for this program. Applicants must contact their State Single Point of Contact to comply with their State's process under Executive Order 12372. The names and addresses of the Single State Points of Contact are listed in the Office of Management and Budget's website.

6. Funding Restrictions

FRA is prohibited under 49 U.S.C. 22905(f) from providing CRISI grants for commuter rail passenger transportation (as defined in 49 U.S.C. 24102(3)). FRA's interpretation of this restriction is informed by the language in 49 U.S.C. 22907. FRA's primary intent in funding passenger rail projects is to make reasonable investments in Intercity Passenger Rail Transportation. Such projects may be located on shared corridors where commuter rail passenger transportation and/or freight rail also benefit from the project. The 2021 Appropriation makes an exception to this funding restriction for commuter rail passenger transportation projects for the implementation of positive train control systems that are otherwise eligible under 49 U.S.C. 22907(c)(1).

Consistent with 2 CFR 200.458, as applicable, FRA will only approve pre-award costs if such costs are incurred pursuant to the negotiation and in anticipation of the grant agreement and if such costs are necessary for efficient and timely performance of the scope of work. Under 2 CFR 200.458, grantees must seek written approval from the administering agency for pre-award activities to be eligible for reimbursement under the grant. Activities initiated prior to the execution of a grant or without written approval may be ineligible for reimbursement or matching contribution. Cost sharing or matching may be used only for authorized Federal award purposes.

7. Other Submission Requirements

For any supporting application materials that an applicant cannot submit via [Grants.gov](http://www.Grants.gov), such as oversized engineering drawings, an applicant may submit an original and two (2) copies to

Mr. Douglas Gascon, Office of Policy and Planning, Federal Railroad Administration, 1200 New Jersey Avenue SE, Room W38-212, Washington, DC 20590. Due to delays caused by enhanced screening of mail delivered via the U.S. Postal Service, FRA advises applicants to use other means of conveyance (such as courier service) to assure timely receipt of materials before the application deadline. Additionally, if documents can be obtained online, providing instructions to FRA on how to access files on a referenced website may also be sufficient.

*Note:* Please use generally accepted formats such as .pdf, .doc, .docx, .xls, .xlsx and .ppt, when uploading attachments. While applicants may embed picture files, such as .jpg, .gif, and .bmp, in document files, applicants should not submit attachments in these formats. Additionally, the following formats will not be accepted: .com, .bat, .exe, .vbs, .cfg, .dat, .db, .dbf, .dll, .ini, .log, .ora, .sys, and .zip.

If an applicant experiences difficulties at any point during this process, please call the [Grants.gov](http://www.Grants.gov) Customer Center Hotline at 1-800-518-4726, 24 hours a day, 7 days a week (closed on Federal holidays). For information and instructions on each of these processes, please see instructions at: <http://www.grants.gov/web/grants/applicants/apply-for-grants.html>.

E. Application Review Information

1. Criteria

a. Eligibility, Completeness and Applicant Risk Review

FRA will first screen each application for applicant and project eligibility (eligibility requirements are outlined in Section C of this notice), completeness (application documentation and submission requirements are outlined in Section D of this notice), applicant risk and the minimum match.

FRA will then consider applicant risk, including the applicant's past performance in developing and delivering similar projects and previous financial contributions, and if applicable, previous competitive grant technical evaluation ratings that the proposed project received under previous competitive grant programs administered by DOT.

b. Evaluation Criteria

FRA will evaluate all eligible and complete applications using the evaluation criteria outlined in this section to determine project benefits and technical merit.

i. Project Benefits:

FRA will evaluate the Benefit-Cost Analysis and project benefits of the proposed project for the anticipated private and public benefits relative to the costs of the proposed project and the summary of benefits provided in response to *subsection D(2)(b)(ii)* including—

(A) Effects on system and service performance;

(B) Effects on safety, competitiveness, reliability, trip or transit time, and resilience;

(C) Efficiencies from improved integration with other modes; and

(D) Ability to meet existing or anticipated demand.

ii. Technical Merit:

FRA will evaluate application information for the degree to which—

(A) The tasks and subtasks outlined in the SOW are appropriate to achieve the expected outcomes of the proposed project.

(B) Applications indicate strong project readiness and meet requirements under the project track(s) designated by the applicant.

(C) The technical qualifications and experience of key personnel proposed to lead and perform the technical efforts, and the qualifications of the primary and supporting organizations to fully and successfully execute the proposed project within the proposed timeframe and budget are demonstrated.

(D) The proposed project's business plan considers potential private sector participation in the financing, construction, or operation of the proposed project.

(E) The applicant has, or will have the legal, financial, and technical capacity to carry out the proposed project; satisfactory continuing control over the use of the equipment or facilities; and the capability and willingness to maintain the equipment or facilities.

(F) The degree to which the applicant and project deploy innovative technology, encourage innovative approaches to project delivery, and incentivize the use of innovative financing.

(G) The proposed project is consistent with planning guidance and documents set forth by DOT, including those required by law or State rail plans developed under Title 49, United State Code, Chapter 227.

c. Selection Criteria

In addition to the eligibility and completeness review and the evaluation criteria outlined in this subsection, the FRA will apply the following selection criteria:

i. The FRA will give preference to the following:

(A) Projects for which the proposed Federal share of total project costs is 50 percent or less;

(B) Projects for which the net benefits of the grant funds will be maximized considering the Benefit-Cost Analysis, including anticipated private and public benefits relative to the costs of the proposed project, and factoring in the other considerations in *49 U.S.C. 22907* (e);

(C) Projects for pre-construction elements including preliminary engineering and final design of projects eligible under *49 U.S.C. 22907(c)(2)* that support the development of new intercity passenger rail service routes including alignments for existing routes;

(D) Projects for capital and engineering solutions targeting trespassing that are located in counties with the most pedestrian casualties as identified in *FRA's National Strategy to Prevent Trespassing on Railroad Property* as may be updated or amended from time to time; and

(E) Projects for trespass Enforcement Activities in one of the 10 states with the highest incidence of rail trespass related casualties (as reported in the Rail Incident Accident Reporting System at <https://railroads.dot.gov/accident-and-incident-reporting/casualty-reporting/casualties-and-other-incidents>), which are California, Texas, Illinois, Florida, New York, Pennsylvania, Ohio, Indiana, North Carolina, and Georgia.

ii. After applying the above preferences, the FRA will take into account the following key DOT objectives:

(A) Safety

DOT will assess the project's ability to foster a safe transportation system for the movement of goods and people, consistent with the Department's strategic goal to reduce transportation-related fatalities and serious injuries across the transportation system. Such considerations will include, but are not limited to, the extent to which the project improves safety at highway-rail grade crossings, reduces incidences of rail-related trespassing, and upgrades infrastructure to achieve a higher level of safety.

(B) Equitable Economic Strength and Improving Core Assets

DOT will assess the project's ability to contribute to economic progress stemming from infrastructure investment and associated creation of good jobs with fair wages, labor protections, and the opportunity to join a union. Such considerations will include, but are not limited to, the

extent to which the project invests in vital infrastructure assets, addresses capital needs to connect farms, factories, and shippers to the rail network, and provides opportunities for families to achieve economic security through rail industry employment.

(C) Ensuring Investments Meet Racial Equity and Economic Inclusion Goals

DOT will assess the project's ability to encourage racial equity by investing in projects that proactively address racial equity and barriers to opportunities. Such considerations will include, but are not limited to, the extent to which the project improves or expands transportation options, mitigates the safety risks and detrimental quality of life effects that rail lines can have on communities, and expands workforce development and training opportunities to foster a more diverse rail industry.

(D) Resilience and Addressing Climate Change

DOT will assess the project's ability to reduce the harmful effects of climate change and anticipate necessary improvements for preparedness. Such considerations will include, but are not limited to, the extent to which the project reduces emissions, promotes energy efficiency, increases resiliency, and recycles or redevelops existing infrastructure.

(E) Transformation of Our Nation's Transportation Infrastructure

DOT will assess the project's ability to expand and improve the nation's rail network, which needs to balance new infrastructure for increased capacity with proper maintenance of aging assets. Such considerations will include, but are not limited to, the extent to which the project adds capacity to congested corridors, builds new connections, and ensures assets will be improved to a state of good repair.

iii. In determining the allocation of program funds, FRA may also consider geographic diversity, diversity in the size of the systems receiving funding, and the applicant's receipt of other competitive awards.

2. Review and Selection Process

FRA will conduct a four-part application review process, as follows:

a. Screen applications for completeness, applicant risk and eligibility and consider applicable past performance and previous financial contributions and technical evaluation ratings;

b. Evaluate eligible applications (completed by technical panels applying the evaluation criteria);

c. Review, apply selection criteria and recommend initial selection of projects for the FRA Administrator's review (completed by a non-career Senior Review Team, which includes senior leadership from the Office of the Secretary and FRA); and,

d. Selection of awards for the Secretary's review and approval (completed by the FRA Administrator).

### 3. Reporting Matters Related to Integrity and Performance

Before making a Federal award with a total amount of Federal share greater than the simplified acquisition threshold of \$250,000 (see 2 *CFR* 200.88 Simplified Acquisition Threshold), FRA will review and consider any information about the applicant that is in the designated integrity and performance system accessible through SAM (currently the Federal Awardee Performance and Integrity Information System (FAPIS)). See 41 *U.S.C.* 2313.

An applicant, at its option, may review information in the designated integrity and performance systems accessible through SAM and comment on any information about itself that a Federal awarding agency previously entered and is currently in the designated integrity and performance system accessible through SAM.

FRA will consider any comments by the applicant, in addition to the other information in the designated integrity and performance system, in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards when completing the review of risk posed by applicants as described in 2 *CFR* 200.205.

## F. Federal Award Administration Information

### 1. Federal Award Notice

FRA will announce applications selected for funding in a press release and on the FRA website after the application review period. This announcement is FRA's notification to successful and unsuccessful applicants alike. FRA will contact applicants with successful applications after announcement with information and instructions about the award process. This notification is not an authorization to begin proposed project activities. FRA requires satisfaction of applicable requirements by the applicant and a formal agreement signed by both the grantee and the FRA, including an approved scope, schedule, and budget, before obligating the grant.

For Track 2 PE/NEPA projects, these requirements may include transportation planning. For Track 3 FD/Construction projects, these requirements may include transportation planning, PE and environmental reviews.

### 2. Administrative and National Policy Requirements

In connection with any program or activity conducted with or benefiting from funds awarded under this notice, grantees must comply with all applicable requirements of Federal law, including, without limitation, the Constitution of the United States; the conditions of performance, nondiscrimination requirements, and other assurances made applicable to the award of funds in accordance with regulations of the Department of Transportation; and applicable Federal financial assistance and contracting principles promulgated by the Office of Management and Budget. In complying with these requirements, grantees, in particular, must ensure that no concession agreements are denied, or other contracting decisions made on the basis of speech or other activities protected by the First Amendment. If the Department determines that a grantee has failed to comply with applicable Federal requirements, the Department may terminate the award of funds and disallow previously incurred costs, requiring the grantee to reimburse any expended award funds.

Examples of administrative and national policy requirements include: 2 *CFR* part 200; procurement standards at 2 *CFR* part 200 Subpart D—Procurement Standards, 2 *CFR* 1207.317 and 2 *CFR* 200.401; compliance with Federal civil rights laws and regulations; requirements for disadvantaged business enterprises, debarment and suspension requirements, and drug-free workplace requirements; FRA's and OMB's Assurances and Certifications; Americans with Disabilities Act; safety requirements; NEPA; environmental justice requirements; performance measures under 49 *U.S.C.* 22907(f); for CRISI Funding, grant conditions under 49 *U.S.C.* 22905 including the Buy America requirements, applicable labor requirements, the provision deeming operators rail carriers for certain purposes and grantee agreements with railroad right-of-way owners for projects using railroad right-of way. Unless otherwise stated in statutory or legislative authority, or appropriations language, all financial assistance awards follow the Uniform Administrative Requirements, Cost Principles and

Audit Requirements for Federal Awards at 2 *CFR* part 200 and 2 *CFR* part 1201.

Grantees must comply with applicable appropriations act requirements and all relevant requirements of 2 *CFR* part 200. Rights to intangible property under grants awarded under this NOFO are governed in accordance with 2 *CFR* 200.315. See an example of standard terms and conditions for FRA grant awards at <https://www.fra.dot.gov/eLib/Details/L19057> and clauses specific to CRISI funding at <https://www.fra.dot.gov/eLib/Details/L20078>. These templates are subject to revision.

Projects selected under this NOFO for commuter rail passenger transportation for positive train control projects may be transferred to the Federal Transit Administration for grant administration at the Secretary's discretion. If such a project is transferred to the Federal Transit Administration, applicants will be required to comply with chapter 53 of Title 49 of the United States Code.

### 3. Reporting

#### a. Progress Reporting on Grant Activity

Each applicant selected for a grant will be required to comply with all standard FRA reporting requirements, including quarterly progress reports, quarterly Federal financial reports, and interim and final performance reports, as well as all applicable auditing, monitoring and close out requirements. Reports may be submitted electronically. Pursuant to 2 *CFR* 170.210, non-Federal entities applying under this NOFO must have the necessary processes and systems in place to comply with the reporting requirements should they receive Federal funding.

#### b. Additional Reporting

Applicants selected for funding are required to comply with all reporting requirements in the standard terms and conditions for FRA grant awards including 2 *CFR* 180.335 and 2 *CFR* 180.350.

If the Federal share of any Federal award under this NOFO may include more than \$500,000 over the period of performance, applicants are informed of the post award reporting requirements reflected in 2 *CFR* part 200, Appendix XII—Award Term and Condition for Recipient Integrity and Performance Matters.

#### c. Performance Reporting

Each applicant selected for funding must collect information and report on the project's performance using measures mutually agreed upon by FRA

and the grantee to assess progress in achieving strategic goals and objectives.

Applicants requesting Non-CRISI funding for trespass Enforcement Activities must include the following information: Date, time, number of officers, location and description of Enforcement Activity; Justification or reason for selected Enforcement Activity; Number of contacts (encounters with trespassers); Number of warnings and/or citations issued; and

the deterrence effect of such activities and method for measuring such deterrence (including explanation of how they determine deterrence effect).

Applicants requesting Non-CRISI funding for an Outreach Campaign must include indicators of success (e.g. anticipated reach of messaging efforts or contacts made by personnel with individuals at risk or reduced suicide incidents). FRA maintains the right to

re-publish and use information under this grant for the advancement of safety.

Examples of some rail performance measures for CRISI Funding are listed in the table below. The applicable measure(s) will depend upon the type of project. Applicants requesting funding for the acquisition of rolling stock must integrate at least one equipment/rolling stock performance measure, consistent with the application materials and program goals.

Rail measures	Unit measured	Temporal	Primary strategic goal	Secondary strategic goal	Description
Slow Order Miles .....	Miles .....	Annual .....	State of Good Repair	Safety .....	The number of miles per year within the project area that have temporary speed restrictions ("slow orders") imposed due to track condition. This is an indicator of the overall condition of track. This measure can be used for projects to rehabilitate sections of a rail line since the rehabilitation should eliminate, or at least reduce the slow orders upon project completion.
Gross Ton .....	Gross Tons	Annual .....	Economic Competitiveness.	State of Good Repair	The annual gross tonnage of freight shipped in the project area. Gross tons include freight cargo minus tare weight of the rail cars. This measures the volume of freight a railroad ships in a year. This measure can be useful for projects that are anticipated to increase freight shipments.
Rail Track Grade Separation.	Count .....	Annual .....	Economic Competitiveness.	Safety .....	The number of annual automobile crossings that are eliminated at an at-grade crossing as a result of a new grade separation.
Passenger Counts ...	Count .....	Annual .....	Economic Competitiveness.	State of Good Repair	Count of the annual passenger boardings and alightings at stations within the project area.
Travel Time .....	Time/Trip .....	Annual .....	Economic Competitiveness.	Quality of Life .....	Point-to-point travel times between predetermined station stops within the project area. This measure demonstrates how track improvements and other upgrades improve operations on a rail line. It also helps make sure the railroad is maintaining the line after project completion.
Track Weight Capacity.	Yes/No .....	One Time ....	State of Good Repair	Economic Competitiveness.	If a project is upgrading a line to accommodate heavier rail cars (typically an increase from 263,000 lb. rail cars to 286,000 lb. rail cars.)
Track Miles .....	Miles .....	One Time ....	State of Good Repair	Economic Competitiveness.	The number of track miles that exist within the project area. This measure can be beneficial for projects building sidings or sections of additional main line track on a railroad.

**H. Federal Awarding Agency Contacts**

For further information regarding this notice and the grants program, please contact Mr. Douglas Gascon, Office of Policy and Planning, Federal Railroad Administration, 1200 New Jersey Avenue SE, Room W38-212, Washington, DC 20590; email: [douglas.gascon@dot.gov](mailto:douglas.gascon@dot.gov); phone: 202-493-0239.

**I. Other Information**

All information submitted as part of or in support of any application shall use publicly available data or data that can be made public and methodologies that are accepted by industry practice and standards, to the extent possible.

If the application includes information the applicant considers to be a trade secret or confidential commercial or financial information, the applicant should do the following: (1)

Note on the front cover that the submission "Contains Confidential Business Information (CBI)"; (2) mark each affected page "CBI"; and (3) highlight or otherwise denote the CBI portions.

The DOT regulations implementing the Freedom of Information Act (FOIA) are found at 49 CFR part 7 Subpart C—Availability of Reasonably Described Records under the Freedom of Information Act which sets forth rules

for FRA to make requested materials, information and, records publicly available under FOIA. Unless prohibited by law and to the extent permitted under the FOIA, contents of application and proposals submitted by successful applicants may be released in response to FOIA requests.

Issued in Washington, DC.

**Amitabha Bose,**

*Deputy Administrator.*

[FR Doc. 2021-18737 Filed 8-30-21; 8:45 am]

BILLING CODE 4910-06-P

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2016-0117; Notice 2]

#### General Motors, LLC, Denial of Petition for Decision of Inconsequential Noncompliance

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Denial of petition.

**SUMMARY:** General Motors, LLC (GM) has determined that certain model year (MY) 2016-2017 Cadillac CT6 motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps, Reflective Devices, and Associated Equipment*. GM filed a noncompliance report dated October 26, 2016. GM also petitioned NHTSA on November 18, 2016, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety.

**FOR FURTHER INFORMATION CONTACT:** Leroy Angeles, Office of Vehicle Safety Compliance, NHTSA, telephone (202) 366-5304, facsimile (202) 366-5930.

#### SUPPLEMENTARY INFORMATION:

*I. Overview:* GM has determined that certain MY 2016-2017 Cadillac CT6 motor vehicles do not fully comply with paragraph S7.8.13 of FMVSS No. 108, *Lamps, Reflective Devices, and Associated Equipment* (49 CFR 571.108). GM filed a noncompliance report dated October 26, 2016, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. GM subsequently petitioned NHTSA on November 18, 2016, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published on April 11, 2017, in the **Federal Register** (82 FR 17518), with a 30-day public comment period. One comment was received. To view the petition, all supporting documents, and any comments, log onto the Federal Docket Management System (FDMS) website at: <https://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2016-0117."

*II. Vehicles Involved:* Approximately 12,475 MY 2016-2017 Cadillac CT6 motor vehicles manufactured between September 4, 2015 and October 18, 2016 (the subject vehicles) are potentially involved.

*III. Noncompliance:* GM explains that the noncompliance is that the software in the subject vehicles' parking lamp's electronic control unit (ECU) was programmed incorrectly, causing the ECU to misinterpret the signals from the vehicle's body control module (BCM). This results in a higher than expected light output that may exceed the maximum values permitted in paragraph S7.8.13 of FMVSS No. 108. Specifically, the nine failed test points exceeded the maximum allowed value by 2.3% to 74.8%. Eight of the nine failed test points exceeded the maximum allowed value by 25% or more.

*IV. Rule Requirements:* Paragraph S7.8.13 of FMVSS No. 108, titled "Photometry" includes the requirements relevant to this petition: Each parking lamp must be designed to conform to the photometry requirements of Table XIV of paragraph S7.8.13, when tested according to the procedure of paragraph S14.2.1. Table XIV specifies various minimum and maximum photometric intensity requirements for parking lamps at specified test points.

#### *V. Summary of GM's Petition:*

GM describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, GM offers the following reasoning:

(a) The subject vehicles' parking lamp-headlamp combination does not exceed the maximum permitted glare values for headlamps specified in FMVSS No. 108:

GM states that NHTSA's August 2014 denial of Mercedes-Benz USA's petition for parking lamps that exceeded maximum photometric values, focused on a concern that the parking lamps could cause glare to oncoming drivers (79 FR 50733).

The subject vehicles will expose oncoming drivers to the combined photometric output of the parking lamps

and headlamps. GM claims that, when considering glare in real-world application, the critical issue is not the photometric output value of the parking lamp alone, but the performance of the parking lamp in conjunction with the headlamps. GM asserts that most appropriate way to assess this combined effect is to measure the parking lamp-headlamp combination at the traditional headlamp glare points (points above the horizon in the photometric beam pattern that limit light output in the path of oncoming drivers).

GM states that when two samples of the subject vehicles' parking lamp-headlamp combinations were evaluated in the laboratory against recognized glare points, the output fell below, or within, the acceptable value of headlamp glare points specified in FMVSS No. 108.

According to GM, it is possible for a vehicle to incorporate parking lamps and headlamps whose outputs are near, or at the maximum allowed values while remaining compliant. For headlamps, that output would be at or near the maximum specified photometric values, and for parking lamps that output would be at or near 125 candela (cd) at all test points above the horizon. According to GM, a parking lamp with this output value in close proximity to the headlamp at or near maximum output could create combined output with a glare value exceeding the maximum allowable headlamp photometric glare values by 125 cd. GM asserts that the combination would still be compliant, because the headlamp's glare measurement falls within the permitted values for the headlamp alone, and the parking lamp values correspond to the permitted values for parking lamps.

However, GM states that the parking lamp-headlamp combination in the subject vehicles are below the prescribed glare values for a compliant headlamp and well below the value of the theoretical combined parking lamp-headlamp output.

GM argues that the photometric output of the subject vehicles' parking lamps will not cause a glare that presents an unreasonable risk to the safety of oncoming drivers.

(b) GM's claim that the noncompliance has no impact on turn signal performance: GM recognizes previous statements by NHTSA that a parking lamp that exceeds the maximum permitted photometric values could mask the turn signal and thereby impair the turn signal performance (See 79 FR 50733). GM argues that because the parking lamps in the subject vehicles are optically combined with



the turn signals (*i.e.*, when the turn signal is activated, the parking lamp is extinguished on the side of the active turn signal), the parking lamp does not bear on and cannot impair the performance of an activated turn signal.

(c) GM's belief that the noncompliance will be addressed in the subject vehicles with a service update bulletin: GM stated in its petition that it will issue Service Update Bulletin 16078 to address the noncompliance condition in each of the subject vehicles at their next dealership visit or service appointment. Cadillac CT6 owners are provided, free of charge, Cadillac Premium Care Service for three years or 36,000 miles covering routine maintenance including: Oil changes, tire rotation, air filter replacement and multi-point vehicle inspection. The subject vehicles will also invariably enter dealerships for other reasons. GM argues that most of the subject vehicles will be corrected during their regular warranty period. The Service Update Bulletin will be issued to dealers once sufficient service parts become available.

GM concludes by again contending that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

In a letter dated February 13, 2017, subsequent to receipt of GM's petition, GM provided the following additional information pertaining to photometric testing of the subject parking lamps:

(a) GM states that the photometric testing of the subject park function was conducted by HELLA KGaA Hueck & Co., the supplier of the lamp, at the Hella lab. The parking lamp and headlamp were mounted in design position relative to each other on a goniometer. The park function and the lower beam were energized simultaneously.<sup>1</sup> (In GM's letter, it provided a table evaluating the headlamp glare values in CT6 headlamp-parking lamp combinations.)

(b) To verify that the results of the Hella testing correlate to on-vehicle performance, GM tested the CT6 parking lamps in GM's

<sup>1</sup> To energize the park function on the Cadillac CT6, power and ground are required along with an input signal that duplicates the signal from the vehicle instructing the lamp to illuminate at the Park lamp intensity. This is a Pulse Width Modulation (PWM) signal with a certain frequency and duty cycle. In the Hella lab, that PWM signal was duplicated using a specially built signal generator consisting of a standard PWM Signal Generator and a 47 nF capacitor. The park lamp was energized, using the PWM simulator, to duplicate the subject condition photometry. To energize the lower beam function on the Cadillac CT6, only power and ground is required at its design voltage.

full vehicle dark room. In this test, GM mounted a photometer 10 meters from each headlamp on approximately the optical axis (the optical center of the beam pattern, where the horizontal and vertical axes of the beam pattern cross). All other lamps were covered except the parking lamp on one side of the vehicle. The vehicle was started, and the parking lamps were energized. The lux output of the lamp was measured and then converted into candela. This process was repeated for the parking lamp on the other side of the vehicle. The values were similar and verified a correlation with the Hella lab data on the goniometer.

The full petition and all supporting documents submitted by GM can be viewed by logging onto the FDMS website at <https://www.regulations.gov/> and following the online search instructions to locate docket number "NHTSA-2016-0117."

**VI. Public Comments:** One comment was received by an anonymous source, which stated the following: "This letter is written in resistance to the General Motors petition for inconsequential noncompliance that appeared in the **Federal Register** on April 11. It was Docket NHTSA-2016-0117; Notice 1. You need to consider this request to be moot. In their request, General Motors admits to another noncompliance that must be corrected on the cars affected by the park lamp brightness. General Motors admits that the park lamp is turned off when the turn signal lamp is used. This is a noncompliance because the parking lamp is required to be on and steady burning when the headlights are on. They can fix the park lamp brightness problem when they do the recall to make sure the park lamps stay on when the turn signal lamps are on."

**VII. NHTSA's Analysis:** The burden of establishing the inconsequentiality of a failure to comply with a *performance requirement* in a standard—as opposed to a *labeling requirement with no performance implications*—is more substantial and difficult to meet. Accordingly, the Agency has not found many such noncompliances inconsequential.<sup>2</sup> Potential performance failures of safety-critical equipment, like seat belts or air bags, are rarely deemed inconsequential.

In determining inconsequentiality of a noncompliance, NHTSA focuses on the safety risk to individuals who experience the type of event against which the recall would otherwise

protect.<sup>3</sup> In general, NHTSA does not consider the absence of complaints or injuries as evidence that the issue is inconsequential to safety. The absence of complaints does not mean vehicle occupants have not experienced a safety issue, nor does it mean that there will not be safety issues in the future.<sup>4</sup>

Arguments that only a small number of vehicles or items of motor vehicle equipment are affected also do not justify granting of an inconsequentiality petition.<sup>5</sup> Similarly, mere assertions that only a small percentage of vehicles or items of equipment are likely to actually exhibit a noncompliance are unpersuasive. The percentage of potential occupants that could be adversely affected by a noncompliance is not relevant to whether the noncompliance poses an inconsequential risk to safety. Rather, NHTSA focuses on the consequence to an occupant who is exposed to the consequence of that noncompliance.<sup>6</sup>

NHTSA has reviewed GM's petition, all supplemental information, and the anonymous comment; and has made the decision to deny GM's petition for the following reasons:

<sup>3</sup> See, e.g., *Gen. Motors, LLC; Grant of Petition for Decision of Inconsequential Noncompliance*, 78 FR 35355 (June 12, 2013) (finding noncompliance had no effect on occupant safety because it had no effect on the proper operation of the occupant classification system and the correct deployment of an air bag); *Osram Sylvania Prods. Inc.; Grant of Petition for Decision of Inconsequential Noncompliance*, 78 FR 46000 (July 30, 2013) (finding occupant using noncompliant light source would not be exposed to significantly greater risk than occupant using similar compliant light source).

<sup>4</sup> See *Morgan 3 Wheeler Limited; Denial of Petition for Decision of Inconsequential Noncompliance*, 81 FR 21663, 21666 (Apr. 12, 2016); see also *United States v. Gen. Motors Corp.*, 565 F.2d 754, 759 (DC Cir. 1977) (finding defect poses an unreasonable risk when it "results in hazards as potentially dangerous as sudden engine fire, and where there is no dispute that at least some such hazards, in this case fires, can definitely be expected to occur in the future").

<sup>5</sup> See *Mercedes-Benz, U.S.A., L.L.C.; Denial of Application for Decision of Inconsequential Noncompliance*, 66 FR 38342 (July 23, 2001) (rejecting argument that noncompliance was inconsequential because of the small number of vehicles affected); *Aston Martin Lagonda Ltd.; Denial of Petition for Decision of Inconsequential Noncompliance*, 81 FR 41370 (June 24, 2016) (noting that situations involving individuals trapped in motor vehicles—while infrequent—are consequential to safety); *Morgan 3 Wheeler Ltd.; Denial of Petition for Decision of Inconsequential Noncompliance*, 81 FR 21663, 21664 (Apr. 12, 2016) (rejecting argument that petition should be granted because the vehicle was produced in very low numbers and likely to be operated on a limited basis).

<sup>6</sup> See *Gen. Motors Corp.; Ruling on Petition for Determination of Inconsequential Noncompliance*, 69 FR 19897, 19900 (Apr. 14, 2004); *Cosco Inc.; Denial of Application for Decision of Inconsequential Noncompliance*, 64 FR 29408, 29409 (June 1, 1999).

<sup>2</sup> Cf. *Gen. Motors Corporation; Ruling on Petition for Determination of Inconsequential Noncompliance*, 69 FR 19897, 19899 (Apr. 14, 2004) (citing prior cases where noncompliance was expected to be imperceptible, or nearly so, to vehicle occupants or approaching drivers).

GM argues that the noncompliance is inconsequential because the subject vehicles' parking lamp-headlamp combination does not exceed the maximum permitted glare values for headlamps specified in FMVSS No. 108. While NHTSA agrees that the parking lamp-headlamp combination does not appear to exceed test points representing the vicinity of an oncoming driver's eyellipse (e.g., 1U—1.5L—L; 0.5U—1.5L—L; 1.5U—1R—R; 0.5 U—1R—3R; 0.5 U—1R—3R), it is noteworthy that glare points are not distinctly defined in FMVSS No. 108. Based on the data provided by GM, 8 out of 19 test points for the subject parking lamp exceeded the FMVSS No. 108 maximum allowed value of 125 cd, seven of which exceeded the maximum allowed values by 38% to 113%. As such, these lamps will be noticeably brighter than a compliant lamp and can potentially be distracting to other drivers.<sup>7</sup>

Further, it does not appear that a comprehensive set of data was provided by GM. While GM provided data for combined lower beam and parking lamp photometry, GM provided no data pertaining exclusively to the lower beam or the turn signal photometry. In addition, GM only provided select test points for lower beam photometry combined with the parking lamps.

It is important to note that paragraph S7.1.1.12 of FMVSS No. 108 specifies the ratio requirements between the front turn signal lamps and the parking lamps/clearance lamps. This establishes the requirement that turn signal lamps have three to five times (dependent on the test point) the luminous intensity of the parking lamps when turn signal lamps are combined with parking lamps. If the turn signal lamps are not sufficiently bright enough to be discernable from the parking lamp, then other drivers may not be able to clearly identify the vehicles intent to turn, which poses an increased risk to motor vehicle safety.

While GM argues that extinguishing the parking lamp on the side of the vehicle with the active turn signal prevents impairment of the performance of the activated turn signal, NHTSA does not find this compelling because extinguishing the parking lamp violates the steady burning requirement of FMVSS No. 108. See 49 CFR 571.108, Table 1—a (requiring that the parking lamp “be activated when the headlamps are activated in a steady burning state”). In the event that the turn signal lamp

fails to activate and the parking lamp is still extinguished, this will reduce the visibility of the vehicle, thus, increasing the risk to motor vehicle safety.

Per the activation requirements for parking lamps, as specified in Table 1—a of FMVSS No. 108, NHTSA agrees with the public comment submitted which states that the parking lamp is required to be on, be steady burning when the headlights are activated, and should not be deactivated when the turn signal lamp is used.

GM has offered to issue a service bulletin directing dealers to remedy the noncompliance when the vehicles are brought in for service. NHTSA notes that a manufacturer's decision to conduct a service campaign is not a substitute for conducting a recall since consumers will neither be notified of the noncompliance nor informed to return to the dealership for a free remedy.

**NHTSA's Decision:** As indicated in the analysis of GM's petition provided above, NHTSA finds that GM has not demonstrated that the noncompliance of the subject vehicles with FMVSS No. 108 is inconsequential to motor vehicle safety. Accordingly, NHTSA hereby denies GM's petition and GM is consequently obligated to provide notification of, and a free remedy for, that noncompliance pursuant to 49 U.S.C. 30118 and 30120.

Authority: (49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8)

**Joseph Kolly,**

*Acting Associate Administrator for Enforcement.*

[FR Doc. 2021-18766 Filed 8-30-21; 8:45 am]

**BILLING CODE 4910-59-P**

## DEPARTMENT OF THE TREASURY

### Federal Insurance Office Request for Information on the Insurance Sector and Climate-Related Financial Risks

**AGENCY:** Federal Insurance Office, Departmental Offices, Department of the Treasury.

**ACTION:** Request for Information.

**SUMMARY:** The Federal Insurance Office (FIO) of the U.S. Department of the Treasury (Treasury) is issuing this Request for Information (RFI), following the May 20, 2021 Executive Order on Climate-Related Financial Risk, to solicit public input on FIO's future work relating to the insurance sector and climate-related financial risks. FIO's efforts will focus on three initial climate-related priorities, which are

described below. Additionally, this RFI seeks input on how FIO's data collection and dissemination authorities can best be used by FIO in support of these priorities, as well as to monitor and assess the insurance sector and climate-related financial risks.

**DATES:** Submit written comments on or before November 15, 2021.

**ADDRESSES:** Submit comments electronically through the Federal eRulemaking Portal at <http://www.regulations.gov>, in accordance with the instructions on that site, or by mail to the Federal Insurance Office, Attn: Elizabeth Brown, Senior Insurance Regulatory Policy Analyst, [Elizabeth.Brown@treasury.gov](mailto:Elizabeth.Brown@treasury.gov), (202) 597-2869, Room 1410 MT, Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220. Because postal mail may be subject to processing delays, it is recommended that comments be submitted electronically. If submitting comments by mail, please submit an original version with two copies. Comments should be captioned “FIO Insurance Sector and Climate-Related Financial Risks.” In general, Treasury will post all comments to [www.regulations.gov](http://www.regulations.gov) without change, including any business or personal information provided such as names, addresses, email addresses, or telephone numbers. All comments, including attachments and other supporting materials, are part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly.

**FOR FURTHER INFORMATION CONTACT:**

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**SUPPLEMENTARY INFORMATION:**

#### Background

#### The Insurance Sector and Climate-Related Financial Risks

The Intergovernmental Panel on Climate Change (IPCC) reported this year that “[h]uman-induced climate change is already affecting many weather and climate extremes in every region across the globe. Evidence of

<sup>7</sup> GM argues in its petition that glare from the parking lamp does not present an unreasonable risk to the safety of oncoming drivers however that it not the standard by which NHTSA makes determinations of inconsequential noncompliance.

observed changes in extremes such as heatwaves, heavy precipitation, droughts, and tropical cyclones, and, in particular, their attribution to human influence, has strengthened since [2013].”<sup>1</sup> The United States has experienced a dramatic increase in the frequency and severity of climate-related disasters with a corresponding increase in economic losses in the past 40 years.<sup>2</sup> Economic growth combined with changing socioeconomic trends, such as urbanization and the migration patterns to areas at higher risk of climate-related disasters, are increasing the financial risks associated with the effects of climate change. The increased frequency and severity of climate-related disasters, as well as the magnitude of associated insured losses, highlight the significance of these climate-related financial risks and the role of insurers in responding to them.<sup>3</sup> Additionally, some insurance consumers are increasingly unable to find affordable and available property insurance coverage in certain insurance markets.<sup>4</sup>

The impact of climate change also affects insurers through their broader role in financial markets. For example, the U.S. life insurance sector is one of the largest investors in the U.S. capital markets, with over \$4.7 trillion in investments held in general accounts at year-end 2020.<sup>5</sup> As owners of significant

amounts of assets, insurers could be vulnerable to potential decreases in asset values arising from the transition towards a low-carbon economy.<sup>6</sup>

More broadly, climate-related financial risks may present challenges to the stability of the financial system (of which the insurance sector is an important part) including as shocks that increase financial system vulnerabilities. In a 2020 report, the Financial Stability Board (FSB) described climate-related risks as falling into three categories:

- *Physical risks* are “the possibility that the economic costs of the increasing severity and frequency of climate-change related extreme weather events, as well as more gradual changes in climate, might erode the value of financial assets, and/or increase liabilities.”<sup>7</sup>

- *Transition risks* can arise from the technological, market, and policy changes needed to adjust to a low carbon economy and their effects on the value of financial assets and liabilities. Depending on the nature, speed, and focus of these changes, transition risks may pose varying levels of financial and reputational risk to organizations.<sup>8</sup>

- *Liability risks* may “arise when parties are held liable for losses related to environmental damage that may have been caused by their actions or omissions.”<sup>9</sup>

The same FSB report described how these risks might affect financial stability and highlighted the potential for new risks introduced from the response of the global financial system to climate-related shocks.<sup>10</sup>

An assessment of how climate-related financial risks may affect the insurance sector should consider physical risks, transition risks, and liability risks. More specifically, the assessment should include how the life and property & casualty (P&C) insurers’ business models (including their underwriting

activities, market activities, and investment activities) are affected by each category of risk.<sup>11</sup>

The lack of available data complicates the ability to conduct such assessments. Government and private sector stakeholders have noted the significant issues caused by the lack of available data to assess climate-related financial risk within the insurance sector.<sup>12</sup> These stakeholders could all potentially benefit from high-quality, consistent, comparable, and reliable data for their risk management, disclosures, and forward plans to assess and address climate-related financial risks. State regulatory tools, such as the Own Risk and Solvency Assessment (ORSA), may capture data on some climate-related financial risks if they are recognized by a reporting insurer as having a material impact on its solvency over the next one to two years, but these tools may be inadequate to assess climate-related risks, particularly over a longer time horizon. Additionally, only six states have regularly collected from insurers certain limited, high-level qualitative data directly focused on climate-related financial risks.<sup>13</sup> No federal authority is collecting climate-related financial data specific to the insurance sector.

## Executive Orders

The President’s May 20, 2021, Executive Order on Climate-Related

<sup>11</sup> See, e.g., *FSB Climate Change Implications Report*, 23 (noting that, if the materialization of climate related risks were to lead to large increases in insured losses from physical risks, this might reduce the degree to which households and companies could insure against these risks).

<sup>12</sup> *FSB Climate Change Implications Report*, 28; FSB and International Monetary Fund, *The Financial Crisis and Data Gaps: G20 Data Gaps Initiative (DGI-2) The Fifth Progress Report—Countdown to 2021 in Light of COVID-19* (October 2020), 7, <https://www.fsb.org/wp-content/uploads/P071020.pdf>; International Association of Insurance Supervisors and Sustainable Insurance Forum, *Application Paper on the Supervision of Climate-related Risks in the Insurance Sector* (May 2021), 9, 12–13, 28, <https://www.iaisweb.org/page/supervisory-material/application-papers/file/97146/application-paper-on-the-supervision-of-climate-related-risks-in-the-insurance-sector#>; “How Insurance Companies Can Prepare for Risk from Climate Change,” Deloitte, <https://www2.deloitte.com/us/en/pages/financial-services/articles/insurance-companies-climate-change-risk.html>.

<sup>13</sup> National Association of Insurance Commissioners (NAIC) Center for Insurance Policy and Research, *Assessment of and Insights from NAIC Climate Risk Disclosure Data* (November 2020), 5–6, <https://content.naic.org/sites/default/files/cipr-report-assessment-insights-climate-risk-data.pdf>. The six states—California, Connecticut, Minnesota, New Mexico, New York, and Washington—use the Insurer Climate Risk Disclosure Survey developed by the NAIC. The states require survey completion only by insurers that are regulated by them and who annually report \$100 million or more in premiums and annuity considerations.

<sup>1</sup> IPCC, *Climate Change 2021: The Physical Science Basis—Summary for Policymakers*, 7 August 2021, SPM–10, [https://www.ipcc.ch/report/ar6/wg1/downloads/report/IPCC\\_AR6\\_WGI\\_SPM.pdf](https://www.ipcc.ch/report/ar6/wg1/downloads/report/IPCC_AR6_WGI_SPM.pdf).

<sup>2</sup> See, e.g., Adam B. Smith, “2010–2019: A Landmark Decade of U.S. Billion-Dollar Weather and Climate Disasters,” *NOAA Climate.gov Blog*, January 8, 2020, <https://www.climate.gov/news-features/blogs/beyond-data/2010-2019-landmark-decade-us-billion-dollar-weather-and-climate>. FIO is using the term “climate-related disasters” to refer to the type of weather-related events (such as wildfires, floods, hurricanes, etc.) that may be produced or exacerbated by climate change, as distinct from non-weather related, natural events (such as earthquakes and tsunamis).

<sup>3</sup> Aon, *Weather, Climate & Catastrophe Insight Annual Report 2020* (2021), 9, [https://www.aon.com/global-weather-catastrophe-natural-disasters-costs-climate-change-2020-annual-report/index.html?utm\\_source=region&utm\\_medium=africa&utm\\_campaign=natcat21](https://www.aon.com/global-weather-catastrophe-natural-disasters-costs-climate-change-2020-annual-report/index.html?utm_source=region&utm_medium=africa&utm_campaign=natcat21) (Aon 2020 Cat Insight Annual Report).

<sup>4</sup> See, e.g., Christopher Flavelle, “Wildfires Hasten Another Climate Crisis: Homeowners Who Can’t Get Insurance,” *New York Times*, September 2, 2020, <https://www.nytimes.com/2020/09/02/climate/wildfires-insurance.html>; Emma Kerr, “Here’s How You’re Already Paying for Climate Change,” *U.S. News & World Report*, June 10, 2021, <https://money.usnews.com/money/personal-finance/spending/articles/heres-how-youre-paying-for-climate-change>.

<sup>5</sup> *Best’s Special Report: First Look: 12 Month 2020 Life/Annuity Financial Results* (March 23, 2021), <https://www.businesswire.com/news/home/20210323005711/en/Best%E2%80%99s-Special>

*Report-U.S.-LifeAnnuity-Industry%E2%80%99s-Net-Income-Cut-Nearly-in-Half-in-2020*.

<sup>6</sup> New York Department of Financial Services, *An Analysis of New York Domestic Insurers’ Exposure to Transition Risks and Opportunities from Climate Change* (June 10, 2021), [https://www.dfs.ny.gov/system/files/documents/2021/06/dfs\\_2dii\\_report\\_ny\\_insurers\\_transition\\_risks\\_20210610.pdf](https://www.dfs.ny.gov/system/files/documents/2021/06/dfs_2dii_report_ny_insurers_transition_risks_20210610.pdf)

<sup>7</sup> FSB, *The Implications of Climate Change for Financial Stability* (November 23, 2020), 4, 16, <https://www.fsb.org/wp-content/uploads/P231120.pdf> (FSB *Climate Change Implications Report*).

<sup>8</sup> See *FSB Climate Change Implications Report: Task Force on Climate-Related Financial Disclosures, Recommendations of the Task Force on Climate-related Financial Disclosures* (June 15, 2017), 13, <https://www.fsb-tcfd.org/publications/final-recommendations-report/>.

<sup>9</sup> *FSB Climate Change Implications Report*.

<sup>10</sup> *FSB Climate Change Implications Report*, 1.

Financial Risk emphasizes the important role that the insurance sector can play in combatting climate change. It instructs the Secretary to task FIO “to assess climate-related issues or gaps in the supervision and regulation of insurers, including as part of the [Financial Stability Oversight Council] FSOC’s analysis of financial stability, and to further assess, in consultation with States, the potential for major disruptions of private insurance coverage in regions of the country particularly vulnerable to climate change impacts.”<sup>14</sup>

The May 20 Executive Order complements the President’s January 27, 2021 Executive Order on Tackling the Climate Crisis at Home and Abroad, which set forth the Administration’s policy to “organize and deploy the full capacity of its agencies to combat the climate crisis to implement a Government-wide approach.” The President’s January 27 Executive Order puts the climate crisis at the center of U.S. foreign policy and national security and seeks to “put the United States on a path to achieve net-zero emissions, economy-wide, by no later than 2050.”<sup>15</sup>

### FIO’s Authorities

Title V of the Dodd-Frank Wall Street Reform and Consumer Protection Act established FIO within Treasury. FIO’s statutory authorities include, among other things, monitoring all aspects of the insurance sector, including identifying issues or gaps in the regulation of insurers that could contribute to a systemic crisis in the insurance sector or the U.S. financial system. FIO’s authorities also include monitoring the availability and affordability of insurance products for traditionally underserved communities and consumers, minorities, and low- and moderate-income persons.<sup>16</sup> These segments of the population may be negatively and disproportionately impacted by climate change.<sup>17</sup>

In addition, FIO is authorized to collect data and information on and from the insurance sector, including

through the use of subpoenas.<sup>18</sup> FIO is also authorized to analyze and disseminate data and information and issue reports on all lines of insurance, except health insurance.<sup>19</sup>

Because climate change is a global phenomenon, FIO’s international insurance statutory authorities can help achieve U.S. goals in this area. FIO is authorized to coordinate federal efforts and develop federal policy on prudential aspects of international insurance matters, including representing the United States, as appropriate, in the International Association of Insurance Supervisors (IAIS).<sup>20</sup> Finally, the FIO Director also serves as a non-voting member of the FSOC.<sup>21</sup> The May 20 Executive Order directs that FIO contribute to FSOC’s analysis of financial stability related to climate change.<sup>22</sup>

### FIO’s Current Engagement on Climate-Related Issues

FIO’s role and statutory authorities enable it to take a leadership position in analyzing how the insurance sector may be impacted by, and help mitigate, climate-related risks. FIO is engaging with the NAIC and state insurance regulators through their work on climate-related topics.<sup>23</sup> FIO also represents the United States at the IAIS, is a member of the UN’s Sustainable Insurance Forum, and is a member of the Organisation of Economic Cooperation and Development’s Insurance and Private Pensions Committee—all of which are increasingly focused on climate-related issues. In addition, FIO is discussing climate-related issues with insurance authorities in both the United States and the European Union through the EU-U.S. Insurance Project. FIO also represents Treasury in the federal Mitigation Framework Leadership Group, which is a national structure to coordinate disaster mitigation efforts across the federal government and with state, local, tribal, and territorial representatives. FIO is engaging with the Securities and Exchange Commission and other members of the FSOC on climate-related financial risks. More generally, FIO provides insurance expertise and technical assistance within Treasury and to other federal

agencies, including to the Federal Emergency Management Agency in connection with the National Flood Insurance Program (NFIP). FIO’s engagement on climate-related issues also includes the issuance of public reports addressing natural disasters, climate change, and insurance, including through its annual report to Congress and the President.<sup>24</sup>

### FIO’s Initial Climate-Related Priorities

FIO intends for its climate-related work to respond not only to the Executive Orders, but also to provide an insurance-specific focus within Treasury’s broader climate work, including working with Treasury’s Climate Hub.<sup>25</sup> In particular, FIO intends to initially focus on the following three climate-related priorities:

1. *Insurance Supervision and Regulation*: Assess climate-related issues or gaps in the supervision and regulation of insurers, including their potential impacts on U.S. financial stability.

Maintaining the financial stability of the insurance sector will involve identifying and filling gaps (if any) in insurance supervision with a focus on assessing climate-related financial risks. This will include monitoring the integration of climate-related financial risks into insurance supervisory practices and regulatory frameworks, as well as assessing whether sufficient data, methodologies, and tools exist to manage the solvency of insurers and to protect them against the long-term risk of climate change. To that end, FIO plans to assess supervisory practices and resources, including but not limited to examination policies and procedures, solvency assessment and techniques, data availability and integrity, public disclosures, modeling, and forward-looking assessments (e.g., scenario analysis, stress testing). FIO will consult with individual state insurance regulators and the NAIC during its assessment of such supervisory practices and resources.

2. *Insurance Markets and Mitigation/Resilience*: Assess the potential for

<sup>14</sup> Exec. Order No. 14,030 § 3(b)(i), 86 FR 27967 (May 20, 2021), <https://www.federalregister.gov/documents/2021/05/25/2021-11168/climate-related-financial-risk>.

<sup>15</sup> Exec. Order No. 14,008 § 201, 86 FR 7619 (January 27, 2021), <https://www.federalregister.gov/documents/2021/02/01/2021-02177/tackling-the-climate-crisis-at-home-and-abroad>.

<sup>16</sup> 31 U.S.C. 313(c)(1)(A)–(B).

<sup>17</sup> See, e.g., Alexa Jay et al., “Overview,” in *Impacts, Risks and Adaptation in the United States: Fourth National Climate Assessment* (2018), 36, [https://nca2018.globalchange.gov/downloads/NCA4\\_Ch01\\_Overview.pdf](https://nca2018.globalchange.gov/downloads/NCA4_Ch01_Overview.pdf).

<sup>18</sup> 31 U.S.C. 313(e)(6).

<sup>19</sup> 31 U.S.C. 313(e)(1).

<sup>20</sup> 31 U.S.C. 313(c)(1)(E).

<sup>21</sup> 12 U.S.C. 5321(b)(2)(B).

<sup>22</sup> Exec. Order No. 14,030 § 3(b)(i).

<sup>23</sup> See, e.g., David Altmaier, Presidential Address (speech, NAIC Spring 2021 Opening Session, April 12, 2021), [https://content.naic.org/article/notice\\_spring\\_2021\\_opening\\_session\\_prepared\\_remarks.htm](https://content.naic.org/article/notice_spring_2021_opening_session_prepared_remarks.htm).

<sup>24</sup> See, e.g., FIO, *Report Providing an Assessment of the Current State of the Market for Natural Catastrophe Insurance in the United States* (2015), <https://home.treasury.gov/system/files/311/Natural%20Catastrophe%20Report.pdf>. See also “Reports and Notices,” FIO, <https://home.treasury.gov/policy-issues/financial-markets-financial-institutions-and-fiscal-service/federal-insurance-office/reports-notice> (providing links to all FIO Annual Reports and other reports).

<sup>25</sup> See U.S. Department of the Treasury, “Treasury Announces Coordinated Climate Policy Strategy with New Treasury Climate Hub and Climate Counselor,” news release, April 19, 2021, <https://home.treasury.gov/news/press-releases/jy0134>.

major disruptions of private insurance coverage in U.S. markets that are particularly vulnerable to climate change impacts; facilitate mitigation and resilience for disasters.

Growing evidence indicates that climate change may be associated with a decline in the availability and affordability of insurance provided by the private sector (*i.e.*, private insurance coverage) in certain markets.<sup>26</sup> The creation and expansion of insurers of last resort by individual U.S. states and the federal government highlights this problem.<sup>27</sup> FIO intends to examine the insurability of disasters that are produced or exacerbated by climate change, including wildfires, hurricanes, floods, wind damage, and extreme temperatures.

Additionally, traditionally underserved communities and consumers, minorities, and low- and moderate-income persons may have disproportionate challenges in obtaining affordable property insurance to cover the risks posed by climate-related disasters; further declines in available and affordable insurance could exacerbate the inequities that these persons face.<sup>28</sup> This situation underscores the need to identify solutions to address the growing protection gap exacerbated by climate change.<sup>29</sup> Therefore, FIO also intends to assess the availability and affordability of insurance coverage in high-risk areas, particularly for traditionally

underserved communities and consumers, minorities, and low- and moderate-income persons.

Beyond analyzing potential insurance market disruptions, FIO intends to look at solutions, including identifying best practices for mitigation that can then increase post-disaster resilience, including solutions that can help ensure sufficient availability and affordability of insurance for consumers in light of increasing climate-related disaster risk. In addition, FIO will examine the role of insurers in supporting climate resilience in critical infrastructure, as well as in supporting green investment initiatives.

**3. Insurance Sector Engagement:** Increase FIO's engagement on climate-related issues; leverage the insurance sector's ability to help achieve climate-related goals.

FIO plans to increase its engagement on climate-related issues and take a leadership role in analyzing how the insurance sector may help mitigate climate-related risks. Throughout this work, FIO will engage with stakeholders, including through this RFI. Additionally, the insurance sector has the ability to shape industries, products, and practices through its functions in the financial markets and broad understanding of risk. Thus, it can influence climate-related activity of other sectors of the U.S. economy. FIO therefore will engage with the insurance sector to assess how the sector may help achieve national climate-related goals, including mitigation, adaptation, and transition to a lower carbon economy. This could include insurance sector consideration of underwriting activities, investment holdings, and business operations to support a low emissions economy.<sup>30</sup> It also could encompass insurance sector transition of its operational and attributable greenhouse gas (GHG) emissions.<sup>31</sup> In addition, FIO

plans to consider ways to address the lack of common methodology and standardization in measuring financed emissions, particularly those of non-public companies in which the insurance sector underwrites and invests. Currently, only one state has passed legislation that is intended to leverage the insurance sector's ability to affect GHG emissions.<sup>32</sup>

## I. Request for Comments

Below, FIO invites public comments on a series of questions. The responses to this RFI will help inform FIO's assessment of the implications of climate-related financial risks for the insurance sector. It also will help FIO better understand (1) which data elements are necessary to accurately assess climate risk; (2) which data elements remain unavailable; and (3) how FIO could collect this data and make it available to stakeholders as needed. Access to high-quality, reliable, and consistent data will be necessary for accomplishing all three of FIO's initial climate-related priorities. FIO also will identify and issue recommendations on individual actions that can be taken by various insurance sector stakeholders (such as state insurance regulators, insurers, and policyholders) to address climate-related financial risks and facilitate the U.S. insurance sector's transition to a more sustainable future. FIO recognizes that an effective policy response to climate-related financial risk requires an iterative approach and intends to adjust its work and priorities as needed.

### Executive Order on Climate-Related Financial Risk

1. Please provide your views on how FIO should assess and implement the action items set forth for FIO in the Executive Order on Climate-Related Financial Risk.<sup>33</sup>

### FIO's Initial Climate-Related Priorities

2. Please provide your views on FIO's three climate-related priorities and related activities, particularly with regard to whether there are alternative or additional priorities or activities that FIO should evaluate regarding the impact of climate change on the insurance sector and the sector's effect on mitigation and adaptation efforts.

Inventory Guidance," EPA, <https://www.epa.gov/climateleadership/scope-3-inventory-guidance>.

<sup>32</sup> Claire Wilkinson, "Connecticut Bill Calls for Regulation of Insurers' Climate Risks," *Business Insurance*, June 17, 2021, <https://www.businessinsurance.com/article/20210617/NEWS06/912342605/Connecticut-bill-calls-for-regulation-of-insurers%E2%80%99-climate-risks>.

<sup>33</sup> Exec. Order No. 14,030 § 3(b)(i).

<sup>26</sup> See, e.g., FIO, *Annual Report on the Insurance Industry* (September 2020), 59–60, <https://home.treasury.gov/system/files/311/2020-FIO-Annual-Report.pdf>. See also Exec. Order No. 14,030 § 3(b)(i) (directing FIO to assess "the potential for major disruptions of private insurance coverage in regions of the country particularly vulnerable to climate change impacts" as distinct from insurance provided by or backed by a government entity, such as the federal NFIP. (emphasis added)).

<sup>27</sup> See, e.g., "California FAIR Plan Property Insurance," <https://www.cfpnet.com>; "About Us: Who We Are," Citizens Property Insurance Corporation, <https://www.citizensfla.com/who-we-are>; Congressional Research Service, *Introduction to the National Flood Insurance Program (NFIP)*, Report No. R44593 (Jan. 5, 2021), 1, <https://fas.org/spp/crs/homesecc/R44593.pdf>.

<sup>28</sup> See, e.g., Rachel Morello-Frosch, et al., *The Climate Gap: Inequalities in How Climate Change Hurts Americans & How to Close the Gap* (2018), 17, [https://dornsife.usc.edu/assets/sites/242/docs/ClimateGapReport\\_full\\_report\\_web.pdf](https://dornsife.usc.edu/assets/sites/242/docs/ClimateGapReport_full_report_web.pdf).

<sup>29</sup> See, e.g., Aon 2020 *Cat Insight Annual Report*; Federal Advisory Committee Protection Gap Subcommittee, *Addressing the Protection Gap Through Public/Private Partnerships & Other Mechanisms*, (December 5, 2019), [https://home.treasury.gov/system/files/311/December2019FACL\\_ProtectionGapPresentation.pdf](https://home.treasury.gov/system/files/311/December2019FACL_ProtectionGapPresentation.pdf); ACPR, *A First Assessment of Financial Risks Stemming from Climate Change: The Main Results of the 2020 Climate Pilot Exercise*, No. 122–2021 (2021), 60, [https://acpr.banque-france.fr/sites/default/files/medias/documents/20210602\\_as\\_exercice\\_pilote\\_english.pdf](https://acpr.banque-france.fr/sites/default/files/medias/documents/20210602_as_exercice_pilote_english.pdf).

<sup>30</sup> See, e.g., U.N. Environment Programme Finance Initiative, "The Net Zero Insurance Alliance, Statement of Commitment by Signatory Companies" (July 2021), 1 n. 1, <https://www.unepfi.org/psi/wp-content/uploads/2021/07/NZIA-Commitment.pdf>.

<sup>31</sup> GHG includes Scope 1, 2, and 3 emissions. Scope 1 emissions are direct GHG emissions that occur from sources controlled or owned by an entity (such as an insurer). Scope 2 emissions are indirect GHG emissions associated with purchase of electricity, steam, heat, or cooling by an entity. Scope 3 emissions are all other indirect GHG emissions not covered by Scope 2 and where an entity may impact in the value chain, such as business travel and investments. For insurers, Scope 3 emissions would include the Scope 1, 2, and 3 emissions by policyholders when significant (and when data is available to determine them). See, e.g., "Scope 1 and Scope 2 Inventory Guidance," U.S. Environmental Protection Agency (EPA), <https://www.epa.gov/climateleadership/scope-1-and-scope-2-inventory-guidance>; "Scope 3

### Climate-Related Data and FIO's Data Collection and Data Dissemination Authorities

3. What specific types of data are needed to measure and effectively assess the insurance sector's exposures to climate-related financial risks? If data is not currently available, what are the key challenges in the collection of such climate-related data? In your response, please provide your views on the quality, consistency, comparability, granularity, and reliability of the available or needed data and associated data sources.

4. What are the key factors for the insurance sector in developing standardized, comparable, and consistent climate-related financial risk disclosures? In your response, please discuss whether a global approach for disclosure standards needs to be adopted domestically for insurers. Please also address the advantages and disadvantages of current proposals to standardize such disclosures, such as those set forth by the Task Force on Climate-Related Financial Disclosures or the NAIC's Insurer Climate Risk Disclosure Data Survey.

5. Please provide your views on how FIO's data collection and dissemination authorities should be used by FIO to research, monitor, assess, and publicize climate-related financial risk and other areas of the insurance markets that are affected by climate change.

6. What are the likely advantages and disadvantages of a verified, open-source, centralized database for climate-related information on the insurance sector? Please include in your response the types of information, if any, that may be most useful to disseminate through such a database and the key elements in the development and design of such a database.

### Insurance Supervision and Regulation

7. How should FIO identify and assess climate-related issues or gaps in the supervision and regulation of insurers, including their potential impact on financial stability? In your response, please address insurance supervision and regulations concerning: (a) Prudential concerns, (b) market conduct regarding insurance products and services, and (c) consumer protection. In addition, please discuss how FIO should assess the effectiveness of U.S. state insurance regulatory and supervisory policies in addressing and managing the climate-related financial risks with regard to the threat they may pose to U.S. financial stability, including identifying (1) the major channels through which climate-related physical,

transition, and/or liability risks may impact the stability of the U.S. insurance market, and (2) the degree to which insurers' business models could be affected by each category of risk and the relevant time horizons for such effects.

8. Please identify the key structural issues that could inhibit the ability of insurance supervisors to assess and manage climate-related financial risk in the insurance sector (e.g., accounting frameworks, other standards). What barriers could inhibit the integration of climate-related financial risks into insurance regulation?

9. What approaches used by other jurisdictions or multi-national organizations should FIO evaluate that would help inform it about existing supervisory and regulatory issues and gaps concerning climate-related financial risks? Please describe these approaches, including their advantages and disadvantages, as well as available data sources on these approaches.

### Insurance Markets and Mitigation/Resilience

10. What factors should FIO consider when identifying and assessing the potential for major disruptions of insurance coverage in U.S. markets that are particularly vulnerable to climate change impacts?

11. What markets are currently facing major disruptions due to climate change impacts? What markets are likely to be at risk for major disruptions due to climate change impacts in the future? When discussing markets at risk for future disruption, please estimate the likely time horizons (e.g., 5, 10, 20, or more years) when these disruptions may occur.

12. Climate change is currently exacerbating economic losses caused by weather-related disasters and is projected to cause further damage in the future. Please provide information on the actions that insurers have taken in response to the threat of increased economic losses from climate-related disasters, including how insurers are incorporating mitigation and resilience considerations into their business operations, as well as what other strategies or solutions that insurers or U.S. regulators may want to explore that would help insurers mitigate the impact of climate change and build resilience.

13. To what extent, if any, are models (whether internal proprietary models, open-source models, or third-party vendor models) used in the underwriting process to consider the impact of climate change? How do these models affect pricing of insurance products and business decisions (e.g.,

level of catastrophe exposure, utilization of reinsurance)? What are the best practices for model validation?

14. How should FIO assess the availability and affordability of insurance coverage in U.S. markets that are particularly vulnerable to climate change impacts? In your response, please discuss how to balance maintaining insurer solvency with the need to address the availability and affordability of insurance products responsive to perils associated with climate-related risks, particularly for traditionally underserved communities and consumers, minorities, and low- and moderate-income persons.

15. In what areas have public-private partnerships or collaborations among state or local governments been effective in developing responses to climate change that may be taken by the insurance sector or insurance regulators? How can FIO evaluate the potential long-term or permanent effects on the insurance sector of such public-private partnerships or state and local collaborations to address climate-related risks? How should FIO consider state insurance regulatory efforts on consumer education related to climate risks?

### Insurance Sector Engagement

16. Please provide your views on additional ways that FIO should engage with the insurance sector on climate-related issues.

17. How should FIO assess the efforts of insurers, through their underwriting activities, investment holdings, and business operations to meet the United States' climate goals, including reaching net-zero emissions by 2050? For example, what steps should the insurance sector be taking to help improve transparency, comparability, and assessment of Scope 1, Scope 2, and, to the extent possible, Scope 3 GHG activities?

18. What role or actions might states take to encourage the insurance sector's transition to a low emissions environment and an adaptive and resilient economy? In your response, please discuss whether efforts by states to encourage the development of new insurance products, to promote sustainable investment and underwriting activities, and to address protection gaps created by climate-related financial risks might facilitate this transition.

### General

19. Please provide any additional comments or information on other issues or topics that may be relevant to



FIO's work on insurance and climate-related risks.

**Steven E. Seitz,**

Director, Federal Insurance Office.

[FR Doc. 2021-18713 Filed 8-30-21; 8:45 am]

**BILLING CODE 4810-AK-P**

**DEPARTMENT OF THE TREASURY**

**United States Mint**

**2021 Pricing of Numismatic Gold, Commemorative Gold, Platinum, and Palladium Products Grid**

**AGENCY:** United States Mint, Department of the Treasury.

**ACTION:** Notice.

**SUMMARY:** The United States Mint announces 2021 revisions to include a premium increase in price for the

Palladium coins and expansion of the price ranges up to \$4,049.99 within the Numismatic Gold, Commemorative Gold, Platinum, and Palladium Products Grid.

**FOR FURTHER INFORMATION CONTACT:** Derrick Griffin; Sales and Marketing Directorate; United States Mint; 801 9th Street NW; Washington, DC 20220; or call 202-354-7500.

**SUPPLEMENTARY INFORMATION:** An excerpt of the grid with a recent price range for the palladium proof coins appears below:

2021 Pricing of Numismatic Gold, Commemorative Gold, Platinum, and Palladium Products											
Average Price per Ounce	Size	American Eagle Gold Proof	American Eagle Gold Uncirculated	American Buffalo 24K Gold Proof	American Eagle Platinum Proof	American Eagle Palladium (Numismatic Versions)	American Liberty 24K Gold	First Spouse Gold Proof Coin	First Spouse Gold Uncirculated Coin	Commemorative Gold Proof*	Com
\$2950.00 to \$2999.99	1 oz	\$3,850.00	\$3,820.00	\$3,890.00	\$3,545.00	\$3,900.00	\$3,915.00		\$1,980.00	\$1,960.00	
	1/2 oz	\$1,950.00									
	1/4 oz	\$1,002.50									
	1/10 oz	\$ 430.00					\$ 455.00				
	4-coin set	\$7,182.50									
	2-coin set	\$ 875.00									
	commemorative gold										\$ 955.75
commemorative 3-coin set											\$1,021.25
\$3000.00 to \$3049.99	1 oz	\$3,900.00	\$3,870.00	\$3,940.00	\$3,595.00	\$3,950.00	\$3,965.00		\$2,005.00	\$1,985.00	
	1/2 oz	\$1,975.00									
	1/4 oz	\$1,015.00									
	1/10 oz	\$ 435.00					\$ 460.00				
	4-coin set	\$7,275.00									
	2-coin set	\$ 885.00									
	commemorative gold										\$ 968.00
commemorative 3-coin set											\$1,033.50

The complete 2021 Pricing of Numismatic Gold, Commemorative Gold, Platinum, and Palladium Products Grid will be available at <https://catalog.usmint.gov/coin-programs/american-eagle-coins>.

Pricing can vary weekly dependent upon the London Bullion Market Association gold, platinum, and palladium prices weekly average. The pricing for all United States Mint numismatic gold, platinum, and palladium products is evaluated every Wednesday and modified as necessary.

Authority: 31 U.S.C. 5111, 5112, & 9701.

**Eric Anderson,**

Executive Secretary, United States Mint.

[FR Doc. 2021-18730 Filed 8-30-21; 8:45 am]

**BILLING CODE P**

**DEPARTMENT OF VETERANS AFFAIRS**

[OMB Control No. 2900-NEW]

**Agency Information Collection Activity: Election To Waive, Retain, or Re-Elect Due Process Rights in Receipt of Concurrent Active Duty Service Pay and Disability Compensation Pay**

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** Veterans Benefits Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed new collection, and allow 60 days for public comment in response to the notice.

**DATES:** Written comments and recommendations on the proposed collection of information should be received on or before November 1, 2021.

**ADDRESSES:** Submit written comments on the collection of information through Federal Docket Management System (FDMS) at [www.Regulations.gov](http://www.Regulations.gov) or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to [nancy.kessinger@va.gov](mailto:nancy.kessinger@va.gov). Please refer to "OMB Control No. 2900-NEW" in any correspondence. During the comment period, comments may be viewed online through FDMS.

**FOR FURTHER INFORMATION CONTACT:** Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 1717 H Street NW, Washington, DC 20006, (202) 266-4688 or email [maribel.aponte@va.gov](mailto:maribel.aponte@va.gov). Please refer to "OMB Control No. 2900-NEW" in any correspondence.

**SUPPLEMENTARY INFORMATION:** Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the

information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

*Authority:* 38 U.S.C. 501, 5101(a), and 5304(c).

*Title:* Election to Waive, Retain, or Re-Elect Due Process Rights if in Receipt of

Concurrent Active Duty Service Pay and Disability Compensation Pay (VA Form 21-10213).

*OMB Control Number:* 2900-NEW.

*Type of Review:* New collection.

*Abstract:* VA Form 21-10213, will be used to determine whether an election to waive due process rights is acknowledged, re-elected, or cancelled when a veteran is in receipt of concurrent active duty service pay and disability compensation pay. Without this collection of information, determination of election would not be possible.

*Affected Public:* Individuals and households.

*Estimated Annual Burden:* 8,333 hours.

*Estimated Average Burden per Respondent:* 5 minutes.

*Frequency of Response:* One time.

*Estimated Number of Respondents:* 100,000.

By direction of the Secretary.

**Maribel Aponte,**

*VA PRA Clearance Officer, Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.*

[FR Doc. 2021-18689 Filed 8-30-21; 8:45 am]

**BILLING CODE 8320-01-P**





# FEDERAL REGISTER

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Part II

Department of the Interior

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Fish and Wildlife Service

50 CFR Parts 32 and 71

2021–2022 Station-Specific Hunting and Sport Fishing Regulations; Final Rule

**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Parts 32 and 71**

[Docket No. FWS-HQ-NWRS-2021-0027; FXRS1261090000-212-FF09R20000]

RIN 1018-BF09

**2021–2022 Station-Specific Hunting and Sport Fishing Regulations****AGENCY:** Fish and Wildlife Service, Interior.**ACTION:** Final rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), open, for the first time, seven National Wildlife Refuges (NWRs) that are currently closed to hunting and sport fishing. In addition, we open or expand hunting and sport fishing at 81 other NWRs, and add pertinent station-specific regulations for other NWRs that pertain to migratory game bird hunting, upland game hunting, big game hunting, and sport fishing for the 2021–2022 season. We also open hunting or sport fishing on one unit of the National Fish Hatchery System (NFH). We add pertinent station-specific regulations that pertain to migratory game bird hunting, upland game hunting, big game hunting, and sport fishing at this NFH for the 2021–2022 season. Finally, we make regulatory changes to existing station-specific regulations in order to reduce the regulatory burden on the public, increase access for hunters and anglers on Service lands and waters, and comply with a Presidential mandate for plain language standards.

**DATES:** This rule is effective August 31, 2021.**ADDRESSES:** This final rule, its supporting documents, and the comments we received on the May 4, 2021, proposed rule (86 FR 23794) are available at <http://www.regulations.gov> at Docket No. FWS-HQ-NWRS-2021-0027.

*Information collection requirements:* Written comments and suggestions on the information collection requirements may be submitted at any time to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: PRB (JAO/3W), Falls Church, VA 22041–3803 (mail); or [Info\\_Coll@fws.gov](mailto:Info_Coll@fws.gov) (email). Please reference “OMB Control Number 1018–0140” in the subject line of your comments.

**FOR FURTHER INFORMATION CONTACT:** Christian Myers, (571) 422–3595.**SUPPLEMENTARY INFORMATION:****Background**

The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee), as amended (Administration Act), closes NWRs in all States except Alaska to all uses until opened. The Secretary of the Interior (Secretary) may open refuge areas to any use, including hunting and/or sport fishing, upon a determination that the use is compatible with the purposes of the refuge and National Wildlife Refuge System mission. The action also must be in accordance with provisions of all laws applicable to the areas, developed in coordination with the appropriate State fish and wildlife agency(ies), consistent with the principles of sound fish and wildlife management and administration, and otherwise in the public interest. These requirements ensure that we maintain the biological integrity, diversity, and environmental health of the Refuge System for the benefit of present and future generations of Americans.

We annually review hunting and sport fishing programs to determine whether to include additional stations or whether individual station regulations governing existing programs need modifications. Changing environmental conditions, State and Federal regulations, and other factors affecting fish and wildlife populations and habitat may warrant modifications to station-specific regulations to ensure the continued compatibility of hunting and sport fishing programs and to ensure that these programs will not materially interfere with or detract from the fulfillment of station purposes or the Service’s mission.

Provisions governing hunting and sport fishing on refuges are in title 50 of the Code of Federal Regulations at part 32 (50 CFR part 32), and on hatcheries at part 71 (50 CFR part 71). We regulate hunting and sport fishing to:

- Ensure compatibility with refuge and hatchery purpose(s);
- Properly manage fish and wildlife resource(s);
- Protect other values;
- Ensure visitor safety; and
- Provide opportunities for fish- and wildlife-dependent recreation.

On many stations where we decide to allow hunting and sport fishing, our general policy of adopting regulations identical to State hunting and sport fishing regulations is adequate in meeting these objectives. On other stations, we must supplement State regulations with more-restrictive Federal regulations to ensure that we meet our management responsibilities, as outlined under Statutory Authority,

below. We issue station-specific hunting and sport fishing regulations when we open wildlife refuges and fish hatcheries to migratory game bird hunting, upland game hunting, big game hunting, or sport fishing. These regulations may list the wildlife species that you may hunt or fish; seasons; bag or creel (container for carrying fish) limits; methods of hunting or sport fishing; descriptions of areas open to hunting or sport fishing; and other provisions as appropriate.

**Statutory Authority**

The Administration Act, as amended by the National Wildlife Refuge System Improvement Act of 1997 (Improvement Act; Pub. L. 105–57), governs the administration and public use of refuges, and the Refuge Recreation Act of 1962 (16 U.S.C. 460k–460k–4) (Recreation Act) governs the administration and public use of refuges and hatcheries.

Amendments enacted by the Improvement Act were built upon the Administration Act in a manner that provides an “organic act” for the Refuge System, similar to organic acts that exist for other public Federal lands. The Improvement Act serves to ensure that we effectively manage the Refuge System as a national network of lands, waters, and interests for the protection and conservation of our Nation’s wildlife resources. The Administration Act states first and foremost that we focus our Refuge System mission on conservation of fish, wildlife, and plant resources and their habitats. The Improvement Act requires the Secretary, before allowing a new use of a refuge, or before expanding, renewing, or extending an existing use of a refuge, to determine that the use is compatible with the purpose for which the refuge was established and the mission of the Refuge System. The Improvement Act established as the policy of the United States that wildlife-dependent recreation, when compatible, is a legitimate and appropriate public use of the Refuge System, through which the American public can develop an appreciation for fish and wildlife. The Improvement Act established six wildlife-dependent recreational uses as the priority general public uses of the Refuge System. These uses are hunting, fishing, wildlife observation and photography, and environmental education and interpretation.

The Recreation Act authorizes the Secretary to administer areas within the Refuge System and Hatchery System for public recreation as an appropriate incidental or secondary use only to the extent that doing so is practicable and

not inconsistent with the primary purpose(s) for which Congress and the Service established the areas. The Recreation Act requires that any recreational use of refuge or hatchery lands be compatible with the primary purpose(s) for which we established the refuge and not inconsistent with other previously authorized operations.

The Administration Act and Recreation Act also authorize the Secretary to issue regulations to carry out the purposes of the Acts and regulate uses.

We develop specific management plans for each refuge prior to opening it to hunting or sport fishing. In many cases, we develop station-specific regulations to ensure the compatibility of the programs with the purpose(s) for which we established the refuge or hatchery and the Refuge and Hatchery System mission. We ensure initial compliance with the Administration Act and the Recreation Act for hunting and sport fishing on newly acquired land through an interim determination of compatibility made at or near the time of acquisition. These regulations ensure that we make the determinations required by these acts prior to adding refuges to the lists of areas open to hunting and sport fishing in 50 CFR parts 32 and 71. We ensure continued compliance by the development of comprehensive conservation plans (CCPs) and step-down management plans, and by annual review of hunting and sport fishing programs and regulations.

### Summary of Comments and Responses

On May 4, 2021, we published in the **Federal Register** (86 FR 23794) a proposed rule to open sport fishing at one NFH, open seven NWRs that are currently closed to hunting and sport fishing, expand hunting and sport fishing at 83 other NWRs, and add pertinent station-specific regulations for other NWRs that pertain to migratory game bird hunting, upland game hunting, big game hunting, and sport fishing for the 2021–2022 season. We accepted public comments on the proposed rule for 60 days, ending July 6, 2021. By that date, we received more than 1,200 comments on the proposed rule. More than two-thirds of these comments were form letters or otherwise identical duplicates of other comments on the proposed rule, and the vast majority of those were submitted by one organization and were supportive of the rule. The majority of the substantive comments on the proposed rule stated that the Service should prohibit lead ammunition and tackle on some or all stations. The Service recognizes that

lead is an important issue and will continue to appropriately evaluate and regulate lead ammunition and tackle on Service lands and waters. We discuss the remaining unique comments we received below by topic. Beyond our responses below, additional station-specific information on how we responded to comments on particular hunting or fishing opportunities at a given refuge or hatchery can be found in that station's final hunting and/or fishing package, each of which can be located online at: <https://www.fws.gov/refuges/hunting/rules-regulations-and-improved-access/>.

*Comment (1):* We received a substantial number of comments expressing general support for the proposed changes in the rule. Of the unique comments on the rule, more than half were in general support of the proposed changes. These comments of general support either expressed appreciation for the increased hunting and fishing access in the rule overall, expressed appreciation for increased access at particular refuges, or both. In addition to this general support, some commenters requested additional hunting and fishing opportunities at specific stations or generally in several States.

*Our Response:* Hunting and fishing on U.S. Fish and Wildlife Service lands is a tradition that dates back to the early 1900s. In passing the Improvement Act, Congress reaffirmed that the Refuge System was created to conserve fish, wildlife, plants, and their habitats, and would facilitate opportunities for Americans to participate in compatible wildlife-dependent recreation, including hunting and fishing on Refuge System lands. We prioritize wildlife-dependent recreation, including hunting and fishing, when doing so is compatible with the purpose of the refuge and the mission of the NWRs. Hunting or fishing on hatcheries, unlike Refuge System lands, is authorized when such activity is not detrimental to the propagation and distribution of fish or other aquatic wildlife (see 50 CFR 71.1).

We will continue to open and expand hunting and sport fishing opportunities across refuges and hatcheries; however, as detailed further in our response to *Comment (2)*, below, opening or expanding hunting or fishing opportunities on Service lands is not a quick or simple process. The annual regulatory cycle begins in June or July of each year for the following hunting and sport fishing season (the planning cycle for this 2021–2022 final rule began in June 2020). This annual timeline allows us time to collaborate closely

with our State, Tribal, and Territorial partners, as well as other partners including nongovernmental organizations, on potential opportunities. It also provides us with time to complete environmental analyses and other requirements for opening or expanding new opportunities. Therefore, it would be impracticable for the Service to complete multiple regulatory cycles in one calendar year due to the logistics of coordinating with various partners. Once we determine that a hunting or sport fishing opportunity can be carried out in a manner compatible with individual station purposes and objectives, we work expeditiously to open it.

We did not make any changes to the rule as a result of these comments.

*Comment (2):* Many commenters expressed general opposition to any hunting or fishing in the Refuge System. Of the unique comments on the rule, less than one-fourth were in general opposition to the proposed changes without raising any substantive issues. In many cases, commenters stated that hunting was antithetical to the purposes of a “refuge,” which, in their opinion, should serve as an inviolate sanctuary for all wildlife. Some of these commenters generically opposed expanded or new hunting or fishing opportunities at specific stations.

*Our Response:* The Service prioritizes facilitating wildlife-dependent recreational opportunities, including hunting and fishing, on Service land in compliance with applicable Service law and policy. For refuges, the Administration Act, as amended, stipulates that hunting (along with fishing, wildlife observation and photography, and environmental education and interpretation), if found to be compatible, is a legitimate and priority general public use of a refuge and should be facilitated (16 U.S.C. 668dd(a)(3)(D)). Thus, we only allow hunting of resident wildlife on Refuge System lands if such activity has been determined compatible with the established purpose(s) of the refuge and the mission of the Refuge System as required by the Administration Act. For hatcheries, we allow hunting and fishing when such activity is determined not to be detrimental to the propagation and distribution of fish or other aquatic wildlife (see 50 CFR 71.1). For all 89 stations opening and/or expanding hunting and/or fishing in this rule, we determined that the proposed actions were compatible or would not have detrimental impacts.

Each station manager makes a decision regarding hunting and fishing

opportunities only after rigorous examination of the available information, consultation and coordination with States and Tribes, and compliance with the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) and section 7 of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), as well as other applicable laws and regulations. The many steps taken before a station opens or expands a hunting or fishing opportunity on the refuge ensure that the Service does not allow any opportunity that would compromise the purpose of the station or the mission of the agency.

Hunting of resident wildlife on Service lands generally occurs consistent with State regulations, including seasons and bag limits. Station-specific hunting regulations can be more restrictive (but not more liberal) than State regulations and often are more restrictive in order to help meet specific refuge objectives. These objectives include resident wildlife population and habitat objectives, minimizing disturbance impacts to wildlife, maintaining high-quality opportunities for hunting and other wildlife-dependent recreation, eliminating or minimizing conflicts with other public uses and/or refuge management activities, and protecting public safety.

The word “refuge” includes the idea of providing a haven of safety for wildlife, and as such, hunting might seem an inconsistent use of the Refuge System. However, again, the Administration Act stipulates that hunting, if found compatible, is a legitimate and priority general public use of a refuge. Furthermore, we manage refuges to support healthy wildlife populations that in many cases produce harvestable surpluses that are a renewable resource. As practiced on refuges, hunting and fishing do not pose a threat to wildlife populations. It is important to note that taking certain individuals through hunting does not necessarily reduce a population overall, as hunting can simply replace other types of mortality. In some cases, however, we use hunting as a management tool with the explicit goal of reducing a population; this is often the case with exotic and/or invasive species that threaten ecosystem stability. Therefore, facilitating hunting opportunities is an important aspect of the Service’s roles and responsibilities as outlined in the legislation establishing the Refuge System, and the Service will continue to facilitate these opportunities where compatible with

the purpose of the specific refuge and the mission of the Refuge System.

We did not make any changes to the rule as a result of these comments.

*Comment (3):* We received comments from 13 individual State agencies and the Association of Fish and Wildlife Agencies on the proposed rule. The Oklahoma Department of Wildlife Conservation; South Dakota Department of Game, Fish, and Parks; Montana Department of Fish, Wildlife, and Parks; Idaho Department of Fish and Game; Missouri Department of Conservation; Michigan Department of Natural Resources; and Arkansas Game and Fish Commission all expressed general support for the proposed rule without additional comments. The Wisconsin Department of Natural Resources expressed general support of the changes in the proposed rule, but also requested additional changes at Necedah NWR. The New Jersey Division of Fish and Wildlife expressed general support of the changes in the proposed rule, but also requested additional changes at Cape May and Supawna Meadows NWRs. The Wyoming Game and Fish Department expressed general support of the changes in the proposed rule, but requested minor changes to the hunt units at the National Elk Refuge; minor changes to waterfowl hunting at the National Elk Refuge; additional hunting opportunities at Bamsforth, Hutton Lake, and Mortenson Lake NWRs; and additional opportunities on National Park Service and Bureau of Land Management lands. The Virginia Department of Wildlife Resources expressed general support of the changes in the proposed rule, but suggested that Eastern Shore of Virginia and Fisherman’s Island NWRs provide additional analysis and details on particular hunting and fishing opportunities there and requested that Great Dismal Swamp NWR: (1) Combine a bear hunting permit with a general hunting permit, (2) allow spring turkey hunting, (3) expand to full week hunting, and (4) provide additional information about parking areas. The North Carolina Wildlife Resources Commission expressed general support of the changes in the proposed rule, but requested that we add regulatory language listing Atlantic brant among the migratory bird hunting target species for Mackay Island NWR and stating a requirement for hunters to have North Carolina State licenses and permits. The Oregon Department of Fish and Wildlife expressed general support of the changes in the proposed rule, but requested we edit the regulatory language at William L. Finley NWR to align more closely with the State

regulations by removing “merganser” from the species list, as it is already considered a duck species. The Arizona Game and Fish Department expressed general support of the changes in the proposed rule, but requested the Service to consider allowing the use of falconry on refuges within the State of Arizona, including Bill Williams NWR and Havasu NWR; requested the Service to consider aligning to State regulations for the use of dogs while hunting; requested the Service consider aligning to State regulations for legal methods of take in hunting javelina; and expressed concerns about regulatory differences between refuges within the same State. Finally, the Association of Fish and Wildlife Agencies expressed general support of the changes in the proposed rule, but requested the Service consider additional opportunities on refuges in Alaska.

*Our Response:* The Service appreciates the support of, and is committed to working with, our State partners to identify additional opportunities for expansion of hunting and sport fishing on Service lands and waters.

In response to the Wisconsin Department of Natural Resources, we have made no changes to the rule. We will not address their concerns in this rule because the proposed expansions at Necedah NWR are no longer part of this final rule. We will, however, consider the Department’s requests in shaping any future proposed openings or expansions at Necedah NWR.

In response to the New Jersey Division of Fish and Wildlife, the Service extends hours for fishing to 1 hour before legal sunrise and 1 hour after legal sunset at both Cape May and Supawna Meadows NWRs. The Service will consider additional vehicle access at Cape May NWR and crabbing/shellfishing at Cape May and Supawna Meadows NWRs for future rulemakings, but we cannot make those additions at this time.

As suggested by the Wyoming Game and Fish Department, we have renamed the hunt units at the National Elk Refuge in order to reduce confusion for the public. The Service did not make changes to the white-tailed deer hunt season dates to avoid conflict with the refuge’s elk hunt, and the Service does not plan to consider opening waterfowl hunting on the refuge due to the presence of trumpeter swan populations, as trumpeter swan is a Priority 1 Species of Special Concern for the Wyoming Game & Fish Department, and due to the potential for conflict with other compatible uses on the refuge at that time. The Service

appreciates the Department's comments regarding Bamsforth, Hutton Lake, and Mortenson Lake NWRs, and we will consider opening additional opportunities on those refuges in future rulemakings. The Service cannot comment on potential opportunities on National Park Service and Bureau of Land Management lands, and requests that the State work directly with those agencies for additional opportunities.

In response to the Virginia Department of Wildlife Resources, we have made no changes to the rule, but will add much of the requested information, where appropriate, to supporting documents. Specific information on how we responded to the Virginia Department of Wildlife Resources' suggestions for more detail on particular hunting and fishing opportunities at Eastern Shore of Virginia and Fisherman Island NWRs can be found in those stations' final hunt plan, compatibility determination, and finding of no significant impact documents. With respect to Great Dismal Swamp NWR, first, we cannot combine the bear hunting permit with the general hunting permit due to the strict harvest quota of 20 bears, and the associated need to be able to contact bear hunters specifically, and because refuge lands are situated in both Virginia and North Carolina, which have differing hunting regulations. Second, we are already considering spring turkey hunting for a future rulemaking. Third, we have determined that full week hunting, regardless of whether or not Sundays are included, is not compatible with other uses of the refuge and the refuge's conservation purposes and mission. Fourth, we will engage in outreach efforts to share the information about parking areas with all refuge visitors, including wildlife-dependent recreational users of the refuge.

In response to the North Carolina Wildlife Resources Commission, we have made no changes to the rule. Atlantic brant is considered a variety of dark goose under our regulations, so it does not need to be explicitly listed in station-specific regulations where dark goose hunting is authorized. Thus, the proposed authorization of light and dark goose hunting at Mackay Island NWR already allows for the hunting of Atlantic brant. The suggested language about North Carolina State licenses and permits was not adopted because: (1) It would cause confusion as the regulatory provisions at 50 CFR 32.52(e) govern refuge lands in both North Carolina and Virginia (where North Carolina licenses and permits are not necessary); and (2) this requirement is already covered by

the regulation requiring each person to secure and possess the required state license at 50 CFR 32.2. As a general matter, our regulations operate against the backdrop of state regulations as a default in this way, so if our regulations do not explicitly remove any given state requirement for a given hunt then hunters must still abide by those requirements in order to hunt on Refuge System lands. Nevertheless, the refuge will ensure this requirement is also included in the refuge hunt brochure to address the concerns of the Commission.

In response to the Oregon Department of Fish and Wildlife's request to remove "merganser" from the species list in the regulatory language under William L. Finley NWR, we agree that this change will allow us to be more aligned with the State's regulations and have made that change in this final rule.

In response to the Arizona Game and Fish Department, we consider falconry a "special hunt" due to concerns regarding non-target take and so have made no changes to the rule concerning falconry. Service policy, as outlined in our Service manual at 605 FW 2.7.M. (Special Hunts), stipulates, "We will address special types of hunts, such as falconry, in the hunt section of the visitor service plan (VSP)." In other words, each refuge manager, when developing their step-down VSP (which would include a hunt plan, if appropriate) from their CCP, must first determine if hunting is compatible. Assuming it is found to be compatible, the refuge manager would next determine the conduct of the hunt, which might include the use of falconry. A refuge manager has discretion to restrict hunting and types of hunting, including falconry, if, for example, endangered or threatened species are present, the cumulative impacts of a type of hunt have not been analyzed or are not available, or if a type of special hunt is not compatible with the refuge purpose. Thus, this issue is decided individually on a refuge-by-refuge basis. The Service remains committed to opening hunting methods, including falconry and especially those methods allowed by State regulations, whenever it is possible to do so at a given refuge in a manner consistent with all purposes and objectives of the refuge, in the professional judgment of the refuge manager. Falconry has not been found compatible on Bill Williams River and Havasu NWRs.

In response to the comment from the Arizona Game and Fish Department regarding aligning dog regulations on refuges to State regulations, we have made no changes to the rule. Even

though State regulations may allow dogs during hunting activities, our general refuge regulations prohibit all domesticated animals at 50 CFR 26.21(b) unless authorized by refuge-specific regulations. While refuges adopt State hunting and fishing regulations to the extent practicable, they must also comply with the general refuge regulations. Therefore, in order to allow dogs during hunting activities, each refuge must authorize the use of dogs during hunting activities in their refuge-specific entries at 50 CFR part 32. As explained above, all uses on refuges must be found compatible and must not conflict with refuge objectives. Some refuges have found that the use of dogs during hunting activities must be limited or not authorized in order to avoid conflict with refuge objectives.

In response to the comment from the Arizona Game and Fish Department regarding methods of take for javelina, we have changed the CFR to remove shotgun shooting shot as a legal method of take for javelina at Bill Williams River NWR in order to align with state regulations.

In response to the Arizona Game and Fish Department's concern regarding inconsistencies between refuges within the State, we have made no changes to the rule. Refuges within the same State often have different purposes, different endangered or threatened species, or different habitats, and therefore all hunting and fishing activities and regulations must be considered on a refuge-by-refuge basis as well. Where we do not align with State regulations, we make every attempt to align refuges within a State or geographic region to each other, but this is not always possible to ensure compatibility.

In response to the Association of Fish and Wildlife Agencies, we made no changes to the rule. A key difference from other states is that refuges in Alaska are open to all hunting and fishing uses until closed under the Alaska National Interest Lands Conservation Act (ANILCA; 16 U.S.C. 3111–3126). Where we have closed opportunities or limited the use in comparison to State regulations, we promulgate those regulations under 50 CFR part 36. We work closely with the Alaska Department of Fish and Game when making these determinations and in assessing the continued need for regulations.

*Comment (4):* We received comments from five Tribal governments on the rule. The Shawnee Tribe in Oklahoma and Coushatta Tribe of Louisiana both stated they did not have concerns about the proposed rule. The Iowa Tribe of Kansas and Nebraska expressed

concerns about hunting of species with cultural significance at Loess Bluffs NWR and hunting of “nongame” species, both at Loess Bluffs NWR specifically and in the proposed rule generally. The Choctaw Nation of Oklahoma Historic Preservation Department requested consultation with respect to Choctaw NWR concerning cultural resource records and requested that we add an inadvertent discovery clause to our environmental assessment (EA) for the openings and expansions at the refuge. The Osage Nation Historic Preservation Office commented twice in order to: (1) Convey that the Nation had no concerns about the proposed activities at Loess Bluffs NWR, which are not included in this final rule; and (2) request that the Service conduct a cultural resources survey at Sequoyah NWR before any construction begins on the two proposed new fishing ponds on the refuge.

*Our Response:* The Service appreciates the support of our Tribal partners and is committed to working with our Tribal partners to address their concerns around potential cultural resource, socioeconomic, and ecological impacts from hunting and fishing activities in the Refuge System.

In response to the Iowa Tribe of Kansas and Nebraska, we do not include the proposed openings and expansions at Loess Bluffs NWR in this rule. We will continue discussions with the Iowa Tribe of Kansas and Nebraska on how these acres and species may be considered for hunting openings and expansions in the future. As to the Iowa Tribe’s general concern about hunting of “nongame” species in the rule overall, as explained in detail at *Comment (8)*, below, before authorizing any given hunting and sport fishing activity on a refuge, we ensure the activity is compatible with the biological integrity and ecological health of all species on the refuge. Also, as explained at *Comment (15)*, below, this applies as much to the hunting of predatory and even apex predator species, which some people consider “nongame” species, as it applies to other species that are more commonly considered target species for hunting or “game” species.

In response to the Choctaw Nation, we have provided the requested information, including reports, site forms, and Choctaw NWR’s unanticipated discovery plan. We have also incorporated the suggested inadvertent discovery clause into the refuge’s EA document, as requested.

In response to the Osage Nation, the Service is conducting a cultural resources survey and continuing discussions with the Osage Nation. The

construction of the ponds and all proposed fishing activities dependent on the ponds are contingent on the results of the survey and of our discussions with the Osage Nation.

*Comment (5):* We received two comments with concerns that the Service did not properly engage in government-to-government consultations with Tribes in developing the openings, expansions, and other changes in the proposed rule.

*Our Response:* For all openings and expansions of hunting and sport fishing that the Service considers, the Service engages in government-to-government consultations with any and all potentially affected Tribal partners. As described in our response to *Comment (1)*, above, the Service engages our Tribal partners early in the planning process along with our State and Territorial partners when developing proposed changes to hunting and sport fishing on Service lands and waters.

We did not make any changes to the rule as a result of these comments.

*Comment (6):* A couple commenters stated that the Service should not defer to State fish and wildlife agencies on certain hunting regulations and analysis of wildlife populations.

*Our Response:* The Service works closely with State agency partners on all aspects of fish and wildlife conservation and management. With respect to rules and regulations governing hunting and sport fishing, the Service makes State regulations the default for any authorized hunting and sport fishing to maximize regulatory efficiency and clarity for the public, especially hunters and anglers who must abide by the rules and regulations. The Service also makes a concerted effort to align our rules and regulations with State rules and regulations to maximize this efficiency and minimize confusion, but it is not an abdication of our responsibility to regulate hunting on the Refuge System because we still determine in every case whether or not State hunting and fishing regulations are appropriate for the given refuge. Whenever necessary for refuge purposes, conservation goals, ecological health, or compatibility with other uses, the Service imposes alternate and/or additional rules and regulations to those of the relevant State agencies. With respect to wildlife monitoring and analysis of wildlife populations, the Service does its own monitoring and analyses and looks to these first. We do also draw on the work of State partners, both because it provides more data to inform our decisions and because it ensures we have information about fish and wildlife on a larger geographic scale, which is critical for many species

with large ranges that extend far from Service lands and waters. The ultimate determinations governing all hunting and sport fishing activities on NWRS lands are made by the Service, and we fulfill our responsibilities to administer hunting and sport fishing programs in a manner compatible with both ecological health and integrity and other recreational uses of refuges.

*Comment (7):* We received a number of comments arguing that we should have prepared an environmental impact statement (EIS) instead of station-specific environmental analyses combined with a national cumulative impact report. Some of these comments also argued that specific stations should have prepared an EIS where we prepared an environmental assessment (EA) or an EA where we prepared a categorical exclusion. One of these commenters also stated that the use of lead ammunition or tackle presents an extraordinary circumstance that does not allow for the use of a Categorical Exclusion. Relatedly, a few commenters believed it improper for our NEPA documents to be draft rather than final documents during our comment period.

*Our Response:* The Service disagrees with the comment that we should prepare an EIS before proposing expanded hunting and fishing opportunities on refuges or hatcheries. We completed individual EAs for, or applied categorical exclusions to, 89 refuges and hatcheries, in compliance with NEPA, to evaluate the impacts of opening or expanding hunting and fishing opportunities on the stations through this rulemaking. These EAs and categorical exclusions underwent regional and national review to address and consider these actions from a local, regional, multi-State, and/or flyway perspective, and to consider the cumulative impacts from this larger geographical context. The 2021–2022 cumulative impacts report concludes, after analyzing the collective impacts of all EAs and categorical exclusions prepared in connection with this rule, that the rule will not have significant impacts at the local, regional, or national level. The commenters who have raised these environmental analysis concerns have provided no additional information that would change this analysis or our conclusion. As discussed above, we annually conduct management activities on refuges and hatcheries that minimize or offset impacts of hunting and fishing on physical and cultural resources, including establishing designated areas for hunting; restricting levels of use; confining access and travel to designated locations; providing

education programs and materials for hunters, anglers, and other users; and conducting law enforcement activities.

In this rulemaking, the Service is expanding opportunities for recreational hunting and fishing. Expanding opportunities does not necessarily result in increased impacts to refuge resources. We anticipate that for some refuges, these expansions will not result in changes in usage of the refuge. In other cases, these expansions may lead to some increase in use of refuges, but these changes will likely be minor. Opening of new refuges may attract people to the refuge, but these hunters and/or anglers were likely already participating elsewhere on State or other Federal lands. Overall, considering the decreasing trends in hunting and fishing generally, and decreasing trends of these activities on refuges specifically, we do not expect this final rule to have a significant impact on the environment. As noted in our cumulative impacts report, hunter participation trends have been generally declining, some refuges attract a very small number of participants, and often participation rates decline over the course of a season.

Finally, a Federal court found that this approach, using a bottom-up analysis to assess the cumulative impact of increased hunting and fishing across the entire Refuge System, was an appropriate way for the Service to analyze the impacts of the rule in compliance with NEPA (see *Fund for Animals v. Hall*, 777 F. Supp. 2d 92, 105 (D.D.C. 2011)). We disagree with the one commenter who sought to distinguish this rulemaking from that case on the basis that (1) there were multiple rulemakings before the court, and (2) this rule is larger than those rules were in terms of the number of openings and expansions. These differences do not matter to the court's conclusion that analysis of cumulative impacts through a cumulative impacts report is appropriate. First, the court reached a conclusion about what needs to be analyzed for each individual rulemaking, even though the same challenge was brought against multiple rulemakings. Second, the court could have, but did not, set any limit on the number of openings and expansions the cumulative impacts report could cover. The court likely did not do so because a rule with more openings and expansions will simply have more EAs and categorical exclusions in order to cover each station, and the cumulative impacts report will correspondingly consider a larger number of potential cumulative impacts as thoroughly as in any other iteration of this annual rule.

We also disagree with one commenter's contention that the use of lead ammunition or tackle presents an extraordinary circumstance that will not allow for the use of a categorical exclusion. This question is directly addressed by managers when they determine whether a categorical exclusion is appropriate for a given expansion to hunting and fishing on a refuge. Just as the level of lead introduced from hunting and sport fishing has been found unlikely to produce significant adverse impacts in all of our environmental assessments, it was not considered to have significant adverse impacts for those stations where an expansion to the hunting and/or fishing programs met the criteria for a categorical exclusion. Finally, as the use of lead ammunition and tackle has been allowed on refuges for decades in the ordinary course of operations, it cannot reasonably be considered an extraordinary circumstance for any station.

A few commenters raised a separate but related concern that they believed it improper for our NEPA documents to be draft rather than final documents after the **Federal Register** published the proposed rule. These commenters misunderstand our rulemaking process. Our longstanding approach to this annual rulemaking is that we have the required public comment period for our NEPA documents and the required public comment period for our proposed rule run concurrently and end on the same date. The NEPA documents cannot be finalized without public comment, just as we cannot issue a Final Rule before the public has commented on our proposed rule. Not only is this approach compliant with all applicable laws and regulations but it also provides important advantages for public input. First, because we do create our draft NEPA documents before drafting the proposed rule, so that our environmental impact findings can inform the proposed rule, ending both public comment periods on the same date results in longer public comment periods for our NEPA documents. As an example, in this rulemaking cycle, instead of the 30 days we would otherwise typically provide for an EA, for the EA of Great Dismal Swamp NWR the public was given 88 days to provide comments. Second, with draft NEPA documents we are able to make changes to the EA that reflect changes made to the openings and expansions in the rule in response to public comment on the rule, and vice versa. It would be cumbersome, and potentially cause confusion for the public, to go through

a process of revising finalized EAs to make these same changes. All of our EAs and other underlying planning documents will be finalized and made public alongside the Final Rule, the content of which they fully informed.

In response to comments, we reviewed all EAs and categorical exclusions. Based on that review, we determined that the categorical exclusion for Necedah NWR may require further consideration, and we do not include the proposed expansions at Necedah NWR in this final rule. The Service disagrees with the assertion that, for any of the stations in this rule, we should have prepared an EIS instead of an EA or an EA instead of a categorical exclusion. We also disagree with an assertion that, for any of the stations in this rule, the analysis in the respective EA or categorical exclusion is inadequate under NEPA.

We removed the proposed expansions at Necedah NWR from the rule, but because they would have been administrative expansions, this did not require revising any of the proposed regulatory changes for Necedah NWR. Thus, we did not make any changes to the regulatory provisions in this rule as a result of these comments.

*Comment (8):* We received several comments that alleged the proposed rule is, or certain parts of the proposed rule are, a violation of the Service's mandate to ensure that the biological integrity, diversity, and environmental health of the Refuge System are maintained for the benefit of present and future generations of Americans (16 U.S.C. 668dd(a)(4)(B)). These commenters also expressed concern about the health and genetic diversity of populations of the species being hunted.

*Our Response:* We do not allow hunting on a refuge if it is found incompatible with that individual refuge's purposes or with the mission of the Refuge System. Part of the mission of the Refuge System is to ensure that the biological integrity, diversity, and environmental health of the Refuge System are maintained for the benefit of present and future generations of Americans (16 U.S.C. 668dd(a)(4)(B)). Therefore, each Service station manager uses his or her "sound professional judgment" (see the definition of this term in the Service Manual at 603 FW 2.6.U., available online at <https://www.fws.gov/policy/603fw2.html>) in making these inherently complex management decisions to ensure that each proposed action complies with this mandate. Each manager incorporates field experience, knowledge of refuge resources, considerations of the refuge's role within an ecosystem, applicable

laws, and best available science in making these decisions. Service biologists and wildlife professionals, in consultation with the State, determine the optimal number of each game animal that should reside in an ecosystem and then establish hunt parameters (e.g., bag limits, sex ratios) based on those analyses. We carefully consider how a proposed hunt fits with individual refuge goals, objectives, and strategies before allowing the hunt. The new or expanded hunting and/or fishing opportunities in this rule are not expected to individually or collectively result in significant adverse direct, indirect, or cumulative impacts to hunted populations of migratory birds and resident wildlife, nonhunted populations of migratory birds and resident wildlife, endangered and threatened species, habitat and plant resources, or other natural resources. We analyzed these impacts not only in each refuge's NEPA document and ESA Section 7 document, but also in the 2021–2022 cumulative impacts report.

The Service does not collect population data at the national level, but is able to use State population data when analyzing the impacts at individual stations or within a State. When determining the compatibility of an activity, Service policy (603 FW 2) directs station managers to utilize all available data in exercising their sound professional judgement in the decision-making process.

We did not make any changes to the rule as a direct result of these comments.

*Comment (9):* We received several comments that claimed the actions in the proposed rule would imperil threatened and endangered species. Some of these comments pointed to concerns regarding the Florida Panther NWR in particular.

*Our Response:* In compliance with section 7 of the ESA, every station determined that their proposed actions either would have “no effect” or were “not likely to adversely affect” endangered and threatened species or designated critical habitat present at that station. The Service determined that the proposed action was not likely to jeopardize any listed species, nor adversely modify its critical habitat; and that the proposed action was not likely to jeopardize any proposed or candidate species for listing as threatened or endangered. Furthermore, as described in our cumulative impacts report, because endangered and threatened species are usually highly localized, minor or negligible impacts on an endangered or threatened species at a local or even regional scale would likely

have no cumulative impact on national populations of those species. Thus, considering all impacts cumulatively for each individual threatened or endangered species, it is unlikely there will be any adverse impacts on such species, their habitats, or their recovery from these openings and expansions of hunting and sport fishing.

We do not allow hunting on a refuge if it is found incompatible with that individual refuge's purposes or with the mission of the NWRs. In addition, the Service's biological integrity, diversity, and environmental health (BIDEH) policy (601 FW 3) guides decision-making with respect to management of activities on refuges, including hunting. Service biologists and wildlife professionals, in consultation with the State, determine the optimal number of each game animal that should reside in an ecosystem and then establish hunt parameters (e.g., bag limits, sex ratios) based on those analyses. We carefully consider how a proposed hunt fits with individual refuge goals, objectives, and strategies before allowing the hunt. None of the known, estimated, or projected harvests of migratory game birds, upland game, or big game species in this rulemaking is expected to have significant adverse direct, indirect, or cumulative impacts to hunted populations, non-hunted wildlife, endangered or threatened species, plant or habitat resources, wildlife-dependent recreation, prescribed fire, air, soil, water, cultural resources, refuge facilities, solitude, or socio-economics. We analyze these impacts not only in each refuge's NEPA document, but also in the 2021–2022 cumulative impacts report.

While there may be some minor, localized, and temporary (short-term) impacts to endangered and threatened species as a result of hunting or fishing activities, every station ensured that these impacts were minimized and, in many cases, offset them through a variety of management activities.

In response to the comments expressing concern specifically about Florida Panther NWR, the Service is opening three limited quota spring turkey hunts and fishing on a 19-acre pond on that refuge. Therefore, impacts on the endangered Florida panther (*Puma* (= *Felis*) *concolor coryi*) are expected to be negligible to minor due to the limited number of turkey hunting permits we will issue; the type, amount, and location of approved public access; and the general locations of all proposed project activities (e.g., highly disturbed areas impacted by human use before the refuge was established). As outlined in the environmental assessment (section B

of the VSP), through the use of quota hunts, a sustainable harvest is expected. A limited wild turkey hunt may be held during three weekends of the Florida spring turkey season, and only one bearded turkey may be harvested seasonally by permitted hunters. The refuge hunt will adopt Florida State regulations at nearby State wildlife management areas, and also add refuge-specific regulations to ensure compatibility. Up to 25 permits on two quota weekend hunts (i.e., 50 total permits) and up to 10 family groups (i.e., 20 total permits) on the third weekend hunt may be issued annually. However, Florida Panther NWR will monitor the turkey population and hunter access to allow for adaptive management in the number of permits issued annually. Also, no new roads or trails will be needed to accommodate hunting on the refuge. The use of existing roads and trails will accommodate turkey hunting. It is estimated that fewer than 70 hunters will access the refuge, and they will take fewer than 8 turkeys each season on the refuge. The local turkey population is expected to rebound seasonally, with no significant effects anticipated. Rangewide, this slight increase in take is not expected to have a cumulative effect on the species.

In the ESA Section 7 analysis for Florida Panther NWR, we concluded, based on the best available science and professional judgment of refuge staff, that the hunting and fishing openings are not likely to adversely impact the Florida panther. We have described the turkey hunting activity above because it is the most likely source of any minor disturbances that occur for panthers on the refuge. In addition to the limits on turkey hunting detailed above, it is important to note that turkey is not a primary prey species for the Florida panther, so any temporary, minor change in the refuge's turkey population should not affect panthers. Relatedly, even though panthers will sometimes prey on turkeys, because lead ammunition is prohibited for turkey hunting on the refuge there is no concern about lead exposure from panthers scavenging hunted turkeys or turkey gut piles. Well-managed hunt programs and other outdoor recreational activities do not conflict with the Service's ability to recover the Florida panther or other Federal trust species on Florida Panther NWR. An example of this lack of conflict is evidenced by the fact that since conservation and especially genetic diversification efforts began in the 1990s the panther population has continued to increase



throughout southwest Florida even though hunting and other forms of outdoor recreation have continued to occur as traditional uses across millions of acres, including on both private and public lands. Panthers are one of the most adaptable mammals in the Northern Hemisphere and have home ranges in close proximity to human occupied areas in southwest Florida (e.g., Golden Gate Estates). The proposed quota turkey hunts are anticipated to only have minimal to moderate short-term effects on the Florida panther and other Federal trust species. Panther activity may be temporarily altered as a result of human activity. However, any alteration of panther activity is expected to be insignificant.

We did not make any changes to the rule as a result of these comments.

*Comment (10):* Many commenters expressed concern over the use of lead ammunition and/or lead fishing tackle on refuges and hatcheries. Some commenters objected to these potential sources of lead at a particular refuge or hatchery, and many individual commenters and multiple organizations were concerned about lead nationwide and referred us to various forms of evidence on the subject of lead impacts to human and ecological health. Many of these commenters were supportive of the increased access the Service proposed, but requested the Service not allow lead ammunition or tackle. Some commenters expressed specific concerns about raptor species, including the bald eagle (*Haliaeetus leucocephalus*). One commenter stated that the use of lead ammunition would violate the Bald and Golden Eagle Protection Act of 1940 (16 U.S.C. 668–668c) and the Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*).

*Our Response:* The Service acknowledges concerns from commenters about the issue of bioavailability of lead in the environment and is aware of the potential impacts of lead on fish and wildlife. See, for example, Nancy Golden, et al., “A Review and Assessment of Spent Lead Ammunition and Its Exposure and Effects to Scavenging Birds in the United States,” which is available online at <https://www.fws.gov/midwest/refuges/Review%20and%20Assessment%20paper.pdf>. Accordingly, the Service pays special attention to species susceptible to lead uptake and to sources of lead that could impact ecological and human health.

Historically, the principal cause of lead poisoning in waterfowl was the high densities of lead shot in wetland sediments associated with migratory

bird hunting activities (Kendall et al. 1996). In 1991, as a result of high bird mortality, the Service instituted a nationwide ban on the use of lead shot for hunting waterfowl and coots (see 50 CFR 32.2(k)).

Yet, there remains some concern about the bioavailability of spent lead ammunition (bullets) and fishing tackle on the environment, the health of fish and wildlife, and human health. The Service is aware of fish and wildlife species, including endangered and threatened species, that are susceptible to biomagnification of lead from their food sources or the food eaten by their food sources. There is also evidence that some species are susceptible to direct ingestion of lead ammunition or tackle due to their foraging behaviors. For example, the Service recognizes that ingested lead fishing tackle has been found to be a leading cause of mortality in adult common loons (Grade, T. et al., 2017, in Population-level effects of lead fishing tackle on common loons. The Journal of Wildlife Management 82(1): pp. 155–164). The impacts of lead on human health and safety have been a focus of several scientific studies. We are familiar with studies that have found the ingestion of animals harvested via the use of lead ammunition increased levels of lead in the human body (e.g., Buenz, E. (2016). Lead exposure through eating wild game. American Journal of Medicine, 128: p. 458).

While there are concerns of lead’s general potential for ecological health impacts, we disagree with commenters that the use of lead ammunition in connection with the particular openings and expansions of hunting and fishing on the refuges and hatchery in this rulemaking will significantly impact the environment or is likely to harm endangered or threatened species. Each refuge and hatchery carefully evaluated possible impacts to the environment, including to endangered and threatened species, as part of the NEPA process. As discussed above, on stations where lead ammunition or tackle is allowed, we found that the number of hunters and anglers using lead ammunition or tackle would result in no more than a negligible increase of lead in the environment. As a result, we found there would be no significant impact to the environment from the use of lead ammunition and/or tackle for the station. In addition, every refuge and hatchery looked at the impacts of these new or expanded hunting and fishing opportunities, including the allowance or prohibition of lead, on endangered and threatened species in compliance with requirements under section 7 of

the ESA. The ESA requires Federal agencies to ensure that the actions they carry out, fund, or authorize do not jeopardize the continued existence of endangered or threatened species (listed species). For each station, the Service determined that the proposed action was not likely to adversely affect any listed species, nor jeopardize any listed species. We also determined that the proposed action was not likely to jeopardize any proposed or candidate species for listing as threatened or endangered.

We also disagree with the commenter who asserted that the use of lead ammunition will violate the Bald and Golden Eagle Protection Act of 1940 (Eagle Act) and the Migratory Bird Treaty Act (MBTA). The potential for lead to threaten any species, including raptors in general and eagles in particular because of their protection under these statutes, is a key part of the NEPA and ESA analyses that are conducted before the authorization of any hunting or fishing on a refuge for which lead ammunition or lead fishing tackle is allowed. This ensures hunting and fishing activities are compliant with these statutes. In fact, the MBTA explicitly authorizes the Secretary of the Interior to create regulations governing take for all of the migratory bird species covered by the treaty, including eagles (16 U.S.C. 704(a)). The promulgation of the hunting regulations in this rule under the authority of the Secretary of the Interior means that the Secretary has determined these hunting activities are compatible with the terms of the MBTA and with the international conventions that are the basis for the MBTA. Thus, the hunting regulations in this rule do not violate the MBTA or the associated treaties.

The Service continues to educate hunters and anglers on the impacts of lead on the environment, and particularly on human health and safety concerns of ingesting animals harvested with lead ammunition. We always encourage hunters and anglers to voluntarily use non-lead ammunition and tackle for all harvest activities. For both ammunition and tackle, alternatives to lead are becoming more widely available and used by hunters and anglers; and despite the traditional view that non-lead ammunition and tackle is more expensive, the costs have become comparable.

We share a strong partnership with the States in managing wildlife and therefore, when determining whether to prohibit the use of lead ammunition or tackle, we have traditionally deferred to State regulations. For example, in California, the use of lead ammunition

is prohibited statewide, including on all Service lands, largely in response to the adverse impacts of lead on the endangered California condor (*Gymnogyps californianus*). We will continue to research this issue and plan to continue engaging with States and other partners to promote the use of non-lead ammunition and tackle.

Although there is not a Service-wide ban on lead ammunition for non-migratory bird hunting activities or on lead fishing tackle, the Service has taken specific steps to limit the use of lead in hunting and fishing activities on refuges and hatcheries. Currently, under 50 CFR 32.2(k), all refuges and hatcheries may require the use of nontoxic ammunition for all hunting other than deer and turkey hunting through brochures, signage, and other forms of public notification. For deer hunting, turkey hunting, and fishing, refuges and hatcheries must promulgate station-specific regulations. Notably, we continue, in these annual rulemakings updating the regulations for hunting and fishing on NWRs and NFHs, to phase out the use of lead on Service lands and waters. Currently, including the regulatory changes in this rule, 82 of the 434 stations open to hunting restrict lead ammunition use for deer and/or turkey hunting, and 23 of the 378 stations open to fishing restrict lead tackle for fishing. In this rule, 17 stations are putting forward restrictions on the use of lead ammunition and/or lead fishing tackle. However, we acknowledge that with the increased access provided to hunters and anglers on Service lands and waters in the past few years, despite the Service's efforts to mitigate the impact of lead on the environment, the increase in number of hunting and angling opportunities has outpaced the increase in number of opportunities subject to lead use restrictions.

Based on the recent historic expansions in our hunting and fishing programs, and per our policy, the Service will continue to evaluate lead use in hunting and fishing on Service lands and waters.

*Comment (11):* A few commenters expressed opposition to a prohibition on lead ammunition for hunting. The arguments these commenters put forward were that hunters on a given refuge would not take enough shots to create dangerous levels of lead and that reducing lead is a positive move but regulations prohibiting lead might result in anger and backlash.

*Our Response:* We recognize that lead in the environment carries risks for fish and wildlife, which is why lead ammunition is not allowed for

waterfowl hunting on any refuge and lead ammunition is prohibited on refuges in California in order to protect the California condor. However, most hunting and sport fishing activities do not introduce enough lead into the environment to pose a significant danger to any species or to make it likely listed species will experience adverse effects. Accordingly, lead ammunition and tackle are currently allowed where our NEPA and ESA analyses determine the activity is not likely to result in dangerous levels of lead exposure. Even for the hunting and sport fishing opportunities where we have determined lead will be allowed, we educate hunters about lead and encourage the use of nontoxic alternatives. This education and encouragement, coupled with the declining price of nontoxic alternatives and others trends, have allowed us to introduce lead prohibitions for all or some hunting and sport fishing activities, in addition to waterfowl hunting, on many of our refuges without significant opposition from our State partners, local hunters and anglers, or other stakeholders. This includes provisions prohibiting the use of lead ammunition or lead fishing tackle for 17 different stations in this rule.

*Comment (12):* We received several comments concerned with impacts of this rule on migratory birds. A few of these commenters were particularly concerned about those refuges whose purposes include "inviolate sanctuaries for migratory birds" or that have been designated as "important bird areas" (IBAs) by the Audubon Society.

*Our Response:* All of the migratory bird hunting opportunities on Service lands are done within the frameworks set by the Service in compliance with the MBTA. These frameworks set season lengths, bag limits, and areas for migratory game bird hunting and ensure that hunting will not have adverse impacts on the populations of the various species of migratory birds through rigorous biological monitoring, information collection, and data review. To determine the appropriate frameworks for each species, the Service considers factors such as population size and trend, geographical distribution, annual breeding effort, the condition of breeding and wintering habitat, the number of hunters, and the anticipated harvest. After frameworks are established for season lengths, bag limits, and areas for migratory game bird hunting, States may select season dates, bag limits, and other regulatory options for the hunting seasons. States may always be more restrictive in their selections than the Federal frameworks,

but never more permissive. For more information on this process, see the 2021–2022 cumulative impacts report at <http://www.regulations.gov> under Docket No. FWS–HQ–NWRS–2021–0027.

Our analysis in the cumulative impacts report of the expansion of hunting of migratory game birds on Service lands through this rule indicates that the proposed harvests, or intentional take, of each species will constitute a negligible component of both national and flyway harvest. Station-specific migratory game bird hunting regulations are established within the above discussed frameworks and in compliance with NEPA to ensure that adverse impacts will not accumulate over time; thus, the harvest is expected to have a negligible impact on migratory bird resources within NWRs.

In addition to all hunting for migratory game birds being set within this national framework, and as with all species hunted in the Refuge System, each station must also ensure that the hunting or fishing opportunity is compatible, or in the case of NFHs not detrimental, with the purpose of that station and complies with applicable provisions of NEPA, ESA, and other applicable laws and policy before opening or expanding migratory bird hunting. This thorough process ensures that the Service has analyzed the potential impacts of the proposed hunting or fishing opportunity and determined that the opportunity would not have a significant impact on any migratory bird species, not just the targeted species.

Where inviolate sanctuaries occur on NWRs, all uses must be evaluated for appropriateness and, if necessary, compatibility. The language within the Administration Act only applies to those lands with the designation of inviolate sanctuary for migratory birds. With this in mind, other uses (e.g., big game hunting, hiking, auto tours, etc.) can be allowed as long as they are compatible. When determining compatibility, the Service must consider the high bar that the inviolate sanctuary designation established.

In addition, refuges with this designation will have to evaluate the influence of uses occurring or potentially occurring on other portions of the refuge and how they may affect the inviolate sanctuaries. Although this designation sets a higher level of consideration, it is clear that Congress intended for these areas to be considered for use when compatible. In the case of IBA designations from the Audubon Society, while several refuges

in the rule do have these IBA designations, these designations do not place any additional legal restrictions related to migratory birds on management of these refuges. As discussed previously, each station goes through several different processes, including compatibility determinations, NEPA compliance, and ESA compliance, to ensure that the hunting and fishing opportunities proposed would have no significant impacts on populations of migratory birds in compliance with the Service's mandates under the MBTA, Administration Act, or other applicable laws and policies.

We did not make any changes to the rule as a result of these comments.

*Comment (13):* A number of commenters mentioned climate change, as a general environmental issue, as something we should consider in developing this rule. A few of these commenters specifically argued that we did not fully consider the impacts this rule could have in conjunction with the separate impacts of climate change on fish, wildlife, and other refuge resources. One comment invoked Executive Order 14008, which calls on government agencies to "combat the climate crisis" through conservation and other measures.

*Our Response:* The Service recognizes climate change as a threat to human and ecological health and operates in compliance with Executive Order (E.O.) 14008. The conservation goals and operations of the Refuge System are well-aligned with E.O. 14008, and this rule in particular is consistent with the Executive order.

We consider climate change factors in this rule, as with all actions on Service lands. Where appropriate, the effects of climate change on individual species and refuge natural resources are considered throughout the individual NEPA documents, individual ESA section 7 documents, and cumulative impacts report. If such analysis determined that a given hunting or sport fishing activity, in conjunction with the effects of climate change, would result in adverse impacts to protected species or biological integrity, then the refuge manager would not authorize the activity.

In addition to considering the impacts of climate change on the management of wildlife, we respond to a changing climate through the annual process of setting hunting and fishing seasons. Hunting seasons are based on biological monitoring and coordination with our State partners. In some circumstances, seasons may be adjusted based on predicted harvest rates, population levels, seasonal factors, and other

assessments. While this process is not necessarily climate-based, over time, as the variables mentioned above change, we respond by altering regulations accordingly. These regulatory changes are only incremental changes that build on previous changes. Any major changes in station or environmental conditions, such as an unsustainable decrease in a species' population or sizeable increases in refuge or hatchery acreage or public uses, would trigger additional planning, NEPA review, compatibility determinations, and ESA section 7 evaluation processes. The Service may reevaluate compatibility at any time if conditions warrant. These required planning and management processes ensure that adverse impacts will not accumulate over time.

We did not make any changes to the rule as a result of these comments.

*Comment (14):* We also received various comments expressing the sentiment that "trophy hunting," baiting, and hounding of predators are "unsportsmanlike" activities and inappropriate uses on Service lands. Some comments also expressed a desire for the Service to enact a ban on "hunting contests."

*Our Response:* The Service does not attempt to define or authorize "trophy hunting" in any of our laws, regulations, or policies concerning hunting. We follow State hunting and fishing regulations (except for where we determine it is necessary to be more restrictive on individual stations), including State regulations concerning responsible hunting, or prohibitions on wanton waste (defined as "to intentionally waste something negligently or inappropriately").

We apply this same stance on alleged "hunting contests." The Service follows State bag limits for species open to hunting, except where we may restrict bag limits in order to meet compatibility requirements for the activity. In States where excessive take of particular species is encouraged for sport only, the Service would restrict bag limits. We only allow hunting on refuges and hatcheries when we have determined that the opportunity is sustainable and compatible. For example, "contests" targeting non-game species where there are no bag limits under State regulations, including species classified as "predators" under State laws, are permitted in Oregon and Idaho. However, the Service would not issue permits for coyote hunting "contests" at refuges in these States for several reasons, including unacceptable disturbance impacts to other game and nongame species, conflicts with other

user groups, and conflicts with the Service's BIDEH policy.

Under 50 CFR 26.21(b), the use of dogs for hounding is prohibited on refuges unless authorized by station-specific regulations, and many refuges only authorize the use of dogs for retrieval of migratory birds, upland game birds, and small game. Most refuges that allow dogs require that the dogs are under the immediate control of the hunter at all times or leashed, unless actively retrieving an animal. Most of the commenters who expressed opposition to the use of dogs referenced Silvio O. Conte NWR specifically. The use of dogs will still be allowed at Silvio O. Conte NWR for hunting of waterfowl and game species in accordance with state regulations. However, because of the concerns of commenters we will require hunters who wish to use more than two dogs at a time for hunting of any species anywhere on the refuge to obtain a special use permit and on the Putney Mountain Unit specifically we are only allowing the use of dogs for migratory bird and grouse hunting.

In States where baiting is allowed, most refuges have elected to be more restrictive and not support this method of hunting. Furthermore, most of the commenters who expressed opposition to baiting referenced Silvio O. Conte NWR specifically, but that refuge does not allow baiting.

We made changes to the rule for the use of dogs at Silvio O. Conte NWR as described above, but made no other changes to the rule as a result of these comments.

*Comment (15):* We received a few comments expressing concern about opening and expanding opportunities for hunting of predator species. Some commenters alleged that we did not give enough consideration to the impacts of those proposed hunts, and that the hunts conflicted with the Service's mandates under the Administration Act to maintain the biological integrity, diversity, and environmental health of the refuge. One of these commenters also brought our attention to the omission of coyote from species lists for three refuges in our cumulative impacts report.

*Our Response:* Refuge managers consider predator management decisions on a case-by-case basis. As with all species, a refuge manager makes a decision about managing predator populations, which are included in the category of resident wildlife, including allowing predatory species to be hunted, only after careful examination to ensure the action would comply with relevant laws, policies, and directives. The Administration Act, as amended, directs

the Service to manage refuges for “biological integrity, diversity, and environmental health.” Predators play a critical role in the integrity, diversity, and overall health of ecosystems, so before allowing predators to be hunted, a refuge manager must ensure that these actions do not threaten the integrity, diversity, or health of the refuge ecosystem. The manager must also determine that the action is compatible with refuge purposes and the mission of the Refuge System, and in keeping with the refuge’s CCP and other step-down plans. In addition, the refuge manager analyzes the impacts of the actions on the environment through the NEPA process and section 7 of the ESA. Therefore, a refuge manager must take many steps to ensure that any opportunity for hunting predators on a refuge meets the Service’s applicable laws and policies.

For example, we received one comment advocating for the hunting of predator species during established State seasons at Sherburne NWR in Minnesota. The refuge manager at Sherburne NWR had already considered adding such hunts, but determined that the seasons and hours of predator hunting in Minnesota would conflict with the months of the year and hours of the day in which the refuge is open to the public. Sherburne NWR observes a sanctuary period from March 1 through August 31, and is only open during daylight hours. Predator hunting in Minnesota is primarily at night and primarily during the summer months. We will not be able to grant the request of this commenter because it is not compatible with the conservation purposes and practices of Sherburne NWR.

The Administration Act, as amended, also mandates that regulations allowing hunting or fishing of fish and resident wildlife within the Refuge System shall be, to the extent practicable, consistent with State fish and wildlife laws, regulations, and management plans (16 U.S.C. 668dd(m)). Therefore, all the opportunities for hunting predators in this rule that are intended to bring greater consistency with State fish and wildlife laws, regulations, and management plans are part of realizing the Service’s mission. Moreover, these, as with all predator hunting determinations and all hunting and fishing determinations, were only made after careful consideration by the refuge manager to ensure that such actions would not threaten the integrity, diversity, and overall health of the ecosystem and were compatible with both the purpose of the refuge and the mission of the Refuge System. For

NFHs, the hatchery manager made the decision that such opportunities were not detrimental to the propagation of fish, wildlife, or aquatic species (50 CFR 70.1). Finally, both the NEPA process and the rulemaking process provide opportunities for the public to provide comments and any additional information on impacts of our actions. We considered the additional information provided from the public on this issue during these public comment periods and determined that they did not affect our initial determinations that these small and minor opportunities for hunting predators on specific refuges or hatcheries will have no more than minor impacts on the population health of these species or other wildlife at the local, regional, or national level.

Lastly, one commenter noted that for a particular predator (coyote) the cumulative impacts report omitted proposed hunts from the narrative descriptions of the openings and expansions for three stations: Bogue Chitto NWR, Loess Bluffs NWR, and Malheur NWR. Those typographical errors have been corrected for Bogue Chitto NWR and Malheur NWR. In the case of Loess Bluffs NWR, all hunting openings and expansions described in the May 4, 2021, proposed rule are not included in this final rule, in recognition of concerns expressed by the Iowa Tribe of Kansas and Nebraska.

We have changed the cumulative impacts report as described, but did not make any changes to the rule as a result of these comments.

*Comment (16):* One commenter stated that the Service did not properly consider the impacts of allowing beaver hunting because beaver dams can alter water flow in ways that provide habitats for other species.

*Our Response:* This rule includes the opening or expansion of beaver hunting on multiple refuges, both as a target species and as incidental take during hunts for other species. For each of these refuges individually, the NEPA analysis and ESA section 7 analysis consider the potential impacts of allowing hunters to take beaver. As with all target species, the refuge manager must ensure that authorizing hunting does not threaten the integrity, diversity, or health of the refuge ecosystem. This includes effects on other species from the loss of individuals from the given target species, which encompasses effects from the absence of beaver dams that change water flows just as it encompasses effects from reduced predation, reduced foraging pressure, and other mechanisms that can impact

non-target species. The manager must also determine that the action is compatible with refuge purposes and the mission of the Refuge System, and in keeping with the refuge’s CCP and other step-down plans. As a result, the beaver hunts in this rule do not present a threat to ecosystem health or other species either directly from the take of individual beavers or indirectly through the effect of beaver hunting on the number and strength of beaver dams. In fact, on many refuges beavers are already managed by refuge staff to prevent habitat damage caused by beaver dams, which can have negative impacts on vegetation, moist soil units, and other refuge resources. Finally, the Service does not anticipate substantial take of beavers on any particular refuge or cumulatively.

We did not make any changes to the rule as a result of this comment.

*Comment (17):* We received several comments that expressed concern over some aspect of public safety. Commenters raised concerns about openings or expansions of hunting at certain stations based on the conflicts with other visitors to the refuge or the need for adequate funding and/or staffing. In particular, the most common specific concern was that the increase in openings and expansions of hunting and sport fishing would overwhelm existing law enforcement capacity. These concerns were expressed for multiple specific stations and as a nationwide issue.

*Our Response:* The Service considers public safety to be a top priority. In order to open or expand hunting or sport fishing on a refuge, we must find the activity compatible. In order to find an activity compatible, the activity must not “materially interfere with or detract from” public safety, wildlife resources, or the purpose of the refuge (see the Service Manual at 603 FW 2.6.B., available online at <https://www.fws.gov/policy/603fw2.html>). For this rulemaking, we specifically analyzed the possible impacts of the changes to hunting programs at each refuge and hatchery on visitor use and experience, including public safety concerns and possible conflicts between user groups.

Hunting of resident wildlife on refuges generally occurs consistent with State regulations, which are designed to protect public safety. Refuges may also develop refuge-specific hunting regulations that are more restrictive than State regulations in order to help meet specific refuge objectives, including protecting public safety. Refuges use many techniques to ensure the safety of hunters and visitors, such as requiring hunters to wear blaze orange,

controlling the density of hunters, limiting where firearms can be discharged (*e.g.*, not across roads, away from buildings), and using time and space zoning to limit conflicts between hunters and other visitors. It is worth noting that injuries and deaths related to hunting are extremely rare, both for hunters themselves and for the nonhunting public.

Public comment is important in ensuring we have considered all available information and concerns before making a final decision on a proposed opening or expansion. For all of the proposed openings or expansions of hunting in our May 4, 2021, proposed rule (86 FR 23794), we have determined that there are sufficient protections in place as part of the hunt program at that station to ensure public safety. For more information on the Service's efforts to ensure public safety at a particular station, please see that station's hunt plan, compatibility determination, and associated NEPA analysis.

Regarding concerns about lack of funding or staffing, Service policy (603 FW 2.12.A.(7)) requires station managers to determine that adequate resources (including personnel, which in turn includes law enforcement) exist or can be provided by the Service or a partner to properly develop, operate, and maintain the use in a way that will not materially interfere with or detract from fulfillment of the refuge purpose(s) and the Service's mission. If resources are lacking for establishment or continuation of wildlife-dependent recreational uses, the refuge manager will make reasonable efforts to obtain additional resources or outside assistance from States, other public agencies, local communities, and/or private and nonprofit groups before determining that the use is not compatible. When Service law enforcement resources are lacking, we are often able to rely upon State fish and game law-enforcement capacity to assist in enforcement of hunting and fishing regulations. One commenter noted that our hunt plan document for the Potomac River NWR Complex specifically states that State law enforcement will take on the role of enforcing hunting and fishing regulations and asked that the hunt plan provide further detail. Specific information on how we responded to this comment letter's request for more detail on particular hunting and fishing opportunities at Potomac River NWR Complex can be found in that station's final hunt plan, compatibility determination, and finding of no significant impact documents.

For all 89 stations opening or expanding hunting and/or sport fishing in this rule, we have determined that we have adequate resources, including law enforcement personnel, to develop, operate, and maintain the hunt programs.

We did not make any additional changes to the rule as a result of these comments.

*Comment (18):* We received additional comments supporting the requests made by the Arizona Game and Fish Department to allow falconry on refuges within the State and to align dog regulations on refuges to State regulations. They also echoed the concern from the State about inconsistencies on refuges within the State.

*Our Response:* As described in our response to *Comment (3)*, above, we determine both whether falconry and the use of dogs for hunting is compatible on a refuge-by-refuge basis. We also determine refuge regulations on a refuge-by-refuge basis, and while we strive to achieve consistency on refuges within a State, different regulations are sometimes required. This allows us to ensure that these uses are compatible with the purposes of the refuge.

We did not make any changes to the rule as a direct result of these comments.

*Comment (19):* We received two comments about reduced hunt quality from hunter overcrowding at particular refuges. One comment expressed concerns that the changes, especially removing the lottery limitation on waterfowl hunting, at Sam D. Hamilton Noxubee NWR would lead to hunter overcrowding. The other comment expressed concerns that additional gun hunting for deer at Sherburne NWR would reduce the quality of the current deer bow hunting season on that refuge.

*Our Response:* For Sam D. Hamilton Noxubee NWR, the Service does not conclude removing the lottery draw will impact the quality of the waterfowl hunt or lead to overcrowding, as more areas will be open to hunting resulting in reduced overcrowding. As outlined in the NEPA and planning documents for the change, the Service will eliminate the lottery waterfowl hunting on the refuge to reduce the application process for the users and the associated administrative burden for the refuge. The hunt program was designed to be supportive of hunters of diverse backgrounds. Further, the Service designed the hunt program on the refuge to better align, where appropriate and possible, with State regulations.

For Sherburne NWR, the Service recognizes that the new muzzleloader

deer hunting as proposed may create problems for the existing bow hunting season. Accordingly, we are modifying the new muzzleloader hunting: instead of opening muzzleloader hunting in Areas A, B, and C we will only open it in Area A. The muzzleloader hunting will otherwise operate as proposed. This change ensures that Area B will only be open to bow hunters after the existing 9-day gun season ends. Area C will remain closed to all hunting following the 9-day gun season.

We changed the hunting at Sherburne NWR from the proposed rule as described, but did not make any changes to the regulatory text of the rule or any other changes as a direct result of these comments.

*Comment (20):* A couple of commenters stated that hunting and sport fishing activities could introduce invasive species to refuge lands or waters.

*Our Response:* We are aware of the ecological threats posed by invasive species and make it a part of all Service actions to limit the spread of invasive species. Many of the refuges opening or expanding hunting and sport fishing under this rule have both mitigation measures for invasive species in connection with the hunting and sport fishing activities and separate measures taken on refuge lands and waters to limit invasive species.

We also explicitly consider invasive species in our analyses of proposed hunting and sport fishing openings and expansions. As one of the two commenters noted, the cumulative impacts report directly addresses concerns about invasive species. We conclude there that invasive species do not present a significant risk, at individual refuges or cumulatively, because the participants in activities that present the risk of introducing invasive species generally come to the refuge from within the local area and are few in number.

Moreover, in some cases and as seen in this rule, we may use hunting as a management tool with the explicit goal of reducing populations of invasive species that threaten ecosystem stability. Therefore, facilitating hunting opportunities is an important aspect of the Service's roles and responsibilities for management of invasive species.

We did not make any changes to the rule as a result of these comments.

*Comment (21):* One commenter quoted the proposed rule's description of the Service's statutory authority to promulgate this rule and interpreted the quotation as indicating a "compatibility assessment" was not prepared for each station in the rule.

*Our Response:* This commenter has misinterpreted the quoted language from the rule. The proposed rule's preamble states, "[w]e develop specific management plans for each refuge prior to opening it to hunting or sport fishing. In many cases, we develop station-specific regulations to ensure the compatibility of the programs with the purpose(s) for which we established the refuge or hatchery and the Refuge and Hatchery System mission" (86 FR 23794, May 4, 2021, p. 86 FR 23795). This explains that management plans for many refuges call for promulgating station-specific regulations that ensure the compatibility of hunting and fishing programs with the purpose of the given refuge. As described in response to *Comment (6)*, above, the appropriate State regulations set the default rules for hunting and sport fishing activities that are authorized on a refuge, but the Service often has to supplement these regulations with our own regulations to ensure compatibility. These are the regulations described as being needed "in many cases" and many such regulations are contained in this rule. The proposed rule's preamble goes on to state, "[w]e ensure initial compliance with the Administration Act and the Recreation Act for hunting and sport fishing on newly acquired land through an interim determination of compatibility made at or near the time of acquisition" (86 FR 23794, May 4, 2021, p. 86 FR 23795). This describes another step, separate from developing regulations, in the process of planning hunting and sport fishing activities on a refuge: making a compatibility determination based on the nature of the hunting or sport fishing activity under consideration and the purposes of the particular refuge. These compatibility determinations must be and are made for every activity at every station that offers hunting or sport fishing activities. The phrase "in many cases" as used in the proposed rule is not grammatically tied to compatibility determinations and would never be used by the Service to describe compatibility determinations, as they are a necessary management step for all stations that offer wildlife-dependent recreation.

We did not make any changes to the rule as a direct result of this comment.

*Comment (22):* One commenter argued that the proposed rule violates the Recreation Act in not curtailing public recreation, violates the Administration Act in not preserving biological integrity, and violates the Improvement Act in disrupting ecological processes.

*Our Response:* We disagree with the commenter's statement that this rule

violates the Recreation Act. The Recreation Act provides that the Secretary shall curtail public recreation use generally in order to ensure accomplishment of the primary purposes for which said conservation areas were acquired or established. Thus, Congress delegated the responsibility of determining when to curtail all types of public recreation in the interest of the conservation purposes of each refuge to the Secretary of the Interior, and by extension to the Service. We disagree with the commenter's claim that the Recreation Act calls on the Secretary to curtail public recreation uses generally, especially when the later-enacted Administration Act and Improvement Act explicitly allow, and even prioritize, hunting and sport fishing on refuges. The commenter's interpretation also goes against the spirit of the Recreation Act because this statute was meant to facilitate public use and enjoyment of conservation areas, like refuge system lands. Moreover, there is nothing in this Act to indicate that, as the commenter implied, a recreational use must "provide income" to the Service or be necessary for wildlife management in order for the Secretary to authorize it.

We disagree with the commenter's statement that this rule violates the Administration Act. The commenter is correct that the Secretary, and by extension the Service, must create regulations for hunting within the Refuge System that "ensure that the biological integrity, diversity, and environmental health of the System are maintained." The commenter is incorrect in concluding that this rule violates this part of the Refuge system mission because the commenter fails to recognize that our compatibility determination, NEPA, ESA section 7, and cumulative impacts report processes and analyses take into full account both lead exposure risks and food chain impacts. From these analyses, we determine that our fishing and hunting activities comply with our BIDEH policies based upon the best available science and the professional judgment of Service employees.

The commenter first states that allowing lead shot for certain turkey hunts does not ensure biological integrity and environmental health. Where our analysis and expertise indicate that lead presents a significant danger to biological integrity and environmental health, the use of lead is not allowed; the primary examples are that lead ammunition is prohibited for all waterfowl hunting on all refuges, and all lead is prohibited from NWRs in the State of California in order to protect the

California condor. The potential for lead to threaten biological integrity and environmental health is a key part of the NEPA and ESA analyses that are conducted before the authorization of any hunting or sport fishing activity on a refuge for which lead ammunition or tackle is allowed. For more on the topic of the use of lead for hunting and fishing in the Refuge System, see our response to *Comment (10)*, above.

The commenter next states that allowing the hunting of species at or near the top of the food chain in their given habitat does not ensure biological integrity because it would cause overpopulation of prey species lower on the food chain. While this rule does open or expand hunting of the specific species mentioned by the commenter (pronghorn, sandhill crane, and black bear) and other species atop or near the top of food chains, these hunts will not cause disruptive changes to population sizes of any species. Predators play a critical role in the integrity, diversity, and overall health of ecosystems, so before allowing predators to be hunted, a refuge manager must ensure that these actions do not threaten the integrity, diversity, or health of the refuge ecosystem. The manager must also determine that the action is compatible with refuge purposes and the mission of the Refuge System, and in keeping with the refuge's CCP and other step-down plans. Hunting that would cause too large a reduction in the population of any species or overpopulation of any species would not be authorized, including under this rule. For more on the topic of authorized hunting of predator species in the Refuge System, see our response to *Comment (15)*, above.

We disagree with the commenter's statement that this rule violates the Improvement Act. The commenter claims that the Improvement Act "demands the conservation of ecological processes," but no such language appears in the Improvement Act. The Improvement Act states instead that the Secretary shall provide for the conservation of fish, wildlife, and plants, and their habitats within the Refuge System. Even though the notion of "ecological processes" is absent from the statute, the Service does always consider the health and genetic diversity of wildlife populations in administering hunting and sport fishing within the Refuge System. As already noted above, for any proposed hunting activity the refuge manager must ensure that it does not threaten the integrity, diversity, or health of the refuge ecosystem. The manager must also determine that the action is compatible

with refuge purposes and the mission of the Refuge System, and in keeping with the refuge's CCP and other step-down plans. If hunting would not be a viable tool for a given population, because of genetic diversity concerns or otherwise, other methods of preventing overpopulation are employed. The example of hunting providing a benefit for managing deer populations that the Service provided online, and which the commenter cited, is only meant to illustrate a potential benefit from certain hunts, not that such a benefit is the only consideration when authorizing hunting. While hunting may be a part of a refuge's population control strategies for certain species, the Service considers all effects of hunting (*e.g.*, impacts to genetic diversity) and compatibility with conservation purposes before authorizing such an activity.

The commenter concludes that any hunting at all on refuges will disrupt ecological processes and should therefore not be allowed. While the Improvement Act does not include any discussion of "ecological processes," it does, however, direct that the Secretary shall both recognize compatible wildlife-dependent recreational uses as the priority general public uses of the Refuge System and ensure that opportunities are provided within the Refuge System for compatible wildlife-dependent recreational uses. The Improvement Act's definition of "wildlife-dependent recreational use" includes a use of a refuge involving hunting (among four other uses). Thus, the Service is actually directed by the statute to not only allow but to prioritize hunting on refuges whenever compatible with the conservation mission of the Refuge System.

We did not make any changes to the rule as a direct result of this comment.

*Comment (23):* We received two comments that touched on the proposed rule's discussion of the economic impacts of the rule. One commenter argued that we must use a survey to determine how much non-consumptive, wildlife-dependent recreational use days might decrease because of this rule and include local economic impacts from a decrease in visitation from such users. The second commenter claimed that we must conduct a benefit-cost analysis for this rule and that it must include the cost to the Service to implement the rule and any loss of revenue from non-consumptive users.

*Our Response:* For the first comment, it is important to note that calculations of the local economic impacts are done for purposes of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) to support our determination that the rule

will not have a significant economic impact on a substantial number of small entities. The rule is not promulgated solely because of the estimated benefits to local economies; the hunting and sport fishing openings and expansions in the rule are promulgated because of the public recreational benefits they provide, which the Service does not quantify. The commenter is correct that non-consumptive users are an important user group at our refuges and hatcheries, and they do bring benefits to local economies. However, the commenter's argument that we need to consider economic impacts of the rule on non-consumptive users, and presumably that it would change our finding on the significance of the rule's impact if we did, does not persuade us for two key reasons. First, if the impacts the commenter describes, lost revenue for local economies from fewer non-consumptive use days at refuges and hatcheries, were to occur as a result of this rule, they would be offset by the increased revenues that we have calculated for the added hunting and fishing use days. This means that calculating both impacts, again assuming there in fact were lost non-consumptive use days, could never result in a larger monetary impact estimate than could be calculated by only considering one or the other alone. Thus, calculating net economic impacts from both user groups would not change the significance determination.

Second, calculating only the economic impact of the rule's effects on non-consumptive users of the refuges would not likely result in a higher estimate of maximum nationwide economic impact because there are no expected significant effects on this user group, which means the estimated economic impacts would be virtually zero. As discussed above in our response to *Comment (17)*, this rule is not expected to significantly impact non-consumptive users. None of the provisions in this rule regulate non-consumptive uses of the refuge, and all openings and expansions of hunting and fishing are assessed for compatibility with non-consumptive uses. The Service has put in place many restrictions on hunting and fishing programs, including some added in response to comments on this rule, in order to ensure that we balance the various priority wildlife-dependent recreation uses on all refuges and hatcheries. We do not expect the rule to significantly affect non-consumptive use of the refuges and hatcheries.

Regarding the second comment, if a rulemaking is designated as a "significant" regulatory action under

E.O. 12866 by the Office of Management and Budget's (OMB's) Office of Information and Regulatory Affairs (OIRA), then that rulemaking must, to the extent possible, include a detailed analysis of the benefits and costs of the action. OIRA determined that this rulemaking is "not significant" under E.O. 12866, so a detailed analysis of the costs and benefits of this action is not required. However, we provide our factual basis for certifying that this rule will not have a significant economic impact on a substantial number of small entities below under *Regulatory Flexibility Act*. As earlier in this response, counting the revenue impacts to local economies from potential lost non-consumptive use days would not lead to finding a significant economic impact resulting from this rule. The same holds true for the costs of implementation, although in that case the reason it is expected to be a small monetary cost is that refuge managers evaluated their proposals prior to the publication of the May 4, 2021, proposed rule and ensured that the hunting and fishing openings and expansions in this rule can be administered with current budgets and staff, which are already used to operate various other programs on refuges. Estimates of implementation costs can be found in stations' EAs for those stations that have prepared an EA, and for those that have prepared a Categorical Exclusion document under NEPA the hunting and fishing activities covered are necessarily minor changes that will result in negligible implementation costs. In general, the costs attributable to the hunting and fishing openings and expansions specifically, in terms of both wages and infrastructure, will be negligible compared to the local economic benefits, as only a few staff are needed to administer a program for many hunters.

Finally, it is worth noting that, taking all of this together, it is almost certain that a benefit-cost analysis, pursuant to OMB Circular A-4, would find the benefits of this rule exceed the costs. As explained, no cost is expected in the form of decreased non-consumptive use days and the signage, staffing, and other costs to the Service in administering the hunting and fishing opportunities is unlikely to be greater than the benefits to local economies adjacent to stations, even though those are expected to be no more than \$1.4 million. This would be enough to expect benefits to exceed costs already, but this would not yet account for the recreational benefits of the hunting and sport fishing



opportunities. A full and thorough benefit-cost analysis would quantify this benefit using the hunt and fish use day estimates and the best available information about the price of similar hunting activity on private lands. For example, the company onX estimates the average cost to be at least \$10 per acre for a hunting lease (see [https://www.onxmaps.com/hunt/blog/how-do-hunting-leases-work#:~:text=Today's%20hunters%20can%20expect%20to,the%20distance%20from%20town%20\(ie.\).](https://www.onxmaps.com/hunt/blog/how-do-hunting-leases-work#:~:text=Today's%20hunters%20can%20expect%20to,the%20distance%20from%20town%20(ie.).)) This realized economic surplus for hunters and anglers would be an important part of any benefit-cost analysis and would ensure benefits exceed costs. That is reflected in the Improvement Act, where Congress emphasized the importance of providing this public benefit, finding that the Refuge System's conservation mission has been facilitated by providing Americans opportunities to participate in compatible wildlife-dependent recreation, including fishing and hunting, on Refuge System lands. A thorough benefit-cost analysis would also consider the fish and wildlife population management benefits of hunting and sport fishing to the extent that they provide population controls and target invasive species. That has a direct and quantifiable benefit in terms of reduced work hours from eliminating or reducing the need for refuge staff themselves to harvest fish and wildlife for population control and invasive species. Thus, we have determined that this rule is justified in terms of the ratio of benefits to costs, even if it will not have a significant impact on the economy.

We did not make any changes to the rule, including to our *Regulatory Flexibility Act* discussion and our certification that this rule will not have a significant impact on a substantial number of small entities, as a result of these comments.

*Comment (24):* One commenter expressed concern that proposed hunting activities on refuges within the Potomac River NWR Complex, especially hunting of American black duck, would be inconsistent with or detrimental to the Atlantic Coast Joint Venture, a regional bird conservation effort in which the Service is a partner organization.

*Our Response:* We remain committed to and supportive of the Atlantic Coast Joint Venture (ACJV) and its habitat and species conservation objectives. In permitting hunting within the Potomac River NWR Complex and allowing the hunting of American black duck as a target species, we are following all

restrictions advocated by the ACJV and only providing limited hunting. For example, at Featherstone NWR, we will allow black duck hunting on 36 acres and the hunting season is November 17–28 and December 18–January 30, with a daily bag limit of two black ducks. Similarly, the Virginia Department of Wildlife Resources, another partner to the ACJV, allows some hunting of American black duck on lands under its jurisdiction. Finally, as with any hunting in the Refuge System, hunting openings and expansions in the Potomac River NWR Complex have been evaluated by refuge managers for limited environmental effects, absence of adverse impacts to endangered species, compatibility with refuge purposes, and consistency with the refuge's CCP. In authorizing these hunts, we have determined that they will not impede conservation efforts for the American black duck or other species of interest to the ACJV.

We did not make any changes to the rule as a result of this comment.

*Comment (25):* We received two comments with concerns that the information in the proposed rule was not easily understood, specifically in Table 1 concerning the meaning of “O” and “E” in the table.

*Our Response:* As designated by the table key for the proposed rule's Table 1, “O” designates that the station is opening a new species in the respective category of species to hunting or opening fishing on the station, and “E” designates that the station is expanding hunting for species in the respective category or expanding sport fishing on the station.

We revised Table 1 to account for changes to hunting and fishing openings and expansions in response to other public comments, but did not make any changes to the rule as a result of this comment.

*Comment (26):* Two commenters expressed concern about the use and disposal of fishing line on the Potomac River NWR Complex.

*Our Response:* The Service recognizes that discarded fishing line can present a danger to fish and to wildlife. In general, we educate anglers about this problem and the importance of proper disposal of fishing line. In this particular case, in addition to enforcing all State regulations on sport fishing, the refuges in the Potomac River NWR Complex will include information in their brochures and on their websites directing anglers to dispose of trash and fishing line, of all varieties, properly.

We did not make any changes to the rule as a result of these comments.

### Changes From the Proposed Rule

As discussed above, under Summary of Comments and Responses, based on comments we received on the proposed rule and NEPA documents for individual refuges and hatcheries, we made changes in this final rule to Bill Williams River, Bald Knob, Big Lake, Cache River, Holla Bend, Wapanocca, Cape May, Supawna Meadows, and William L. Finley NWRs. For Bald Knob, Big Lake, Cache River, Holla Bend, and Wapanocca NWRs, we removed the proposed language adding armadillo to the list of species available to hunt in response to comments and made administrative language changes to align the regulatory language across these refuges. For William L. Finley NWR, we removed the proposed language adding merganser to the list of species available to hunt in response to the State of Oregon's request for alignment. For Cape May and Supawna Meadows NWRs, we extended the hours we are open to fishing in response to the State of New Jersey. Under Bill Williams River NWR, we modified the methods of take allowed for javelina hunting in response to the State of Arizona. For Missisquoi and Silvio O. Conte NWRs, we revised our language authorizing the use of dogs while hunting in response to comments.

We removed all proposed hunting and fishing openings and expansions at Necedah NWR and Loess Bluffs NWR. The expansions at Necedah NWR are not included in this final rule because the underlying analyses for these actions may require further consideration. There are still regulatory changes for Necedah NWR in this final rule, but these are administrative revisions for consistency and clarity unrelated to the proposed expansions. The openings and expansions at Loess Bluffs NWR are not included in this final rule because of concerns expressed by the Iowa Tribe of Kansas and Nebraska. We will continue discussions with the Iowa Tribe of Kansas and Nebraska on how these acres and species may be considered for opening to hunting in the future.

We have removed the language authorizing fishing at the former National Bison Range refuge in Montana. This refuge has been transferred to the Confederated Salish and Kootenai Tribes through the Consolidated Appropriations Act, 2021 (Pub. L. 116–260), and we no longer have jurisdiction over public use on the land.

We made minor, clarifying edits to the regulatory language for other refuges, including Dale Bumpers White River,



Bayou Sauvage, Bayou Teche, Big Branch Marsh, Bogue Chitto, Cat Island, Mandalay, Sam D. Hamilton Noxubee, Sequoyah, and Wichita Mountains NWRs.

**Effective Date**

We are making this rule effective upon publication (see **DATES**, above). We provided a 60-day public comment period for the May 4, 2021, proposed rule (86 FR 23794). We have determined that any further delay in implementing these station-specific hunting and sport fishing regulations would not be in the public interest, in that a delay would hinder the effective planning and administration of refuges' and

hatcheries' hunting and sport fishing programs. This rule does not impact the public generally in terms of requiring lead time for compliance. Rather, it relieves restrictions in that it allows activities on refuges and hatcheries that we would otherwise prohibit. Therefore, we find good cause under 5 U.S.C. 553(d)(3) to make this rule effective upon publication.

**Amendments to Existing Regulations**

*Updates to Hunting and Fishing Opportunities on NWRs and NFHs*

This document codifies in the Code of Federal Regulations all of the Service's hunting and/or sport fishing regulations

that we are updating since the last time we published a rule amending these regulations (85 FR 54076; August 31, 2020) and that are applicable at Refuge System and Hatchery System units previously opened to hunting and/or sport fishing. This rule better informs the general public of the regulations at each station, to increase understanding and compliance with these regulations, and to make enforcement of these regulations more efficient. In addition to now finding these regulations in 50 CFR parts 32 and 71, visitors to our refuges and hatcheries may find them reiterated in literature distributed by each station or posted on signs.

TABLE 1—CHANGES FOR 2021–2022 HUNTING/SPORT FISHING SEASON

Station	State	Migratory bird hunting	Upland game hunting	Big game hunting	Sport fishing
Audubon NWR	North Dakota	Closed	Already Open	E	Already Open.
Bald Knob NWR	Arkansas	O/E	O/E	Already Open	Already Open.
Bayou Sauvage NWR	Louisiana	O/E	O	O	E.
Bayou Teche NWR	Louisiana	O/E	O/E	E	Already Open.
Big Branch Marsh NWR	Louisiana	O/E	O/E	O/E	E.
Big Lake NWR	Arkansas	Closed	O	O/E	Already Open.
Bill Williams River NWR	Arizona	E	O/E	O/E	Already Open.
Bogue Chitto NWR	Louisiana & Mississippi	O/E	O/E	E	Already Open.
Bond Swamp NWR	Georgia	E	E	E	Already Open.
Brazoria NWR	Texas	O	Closed	Closed	E.
Cache River NWR	Arkansas	O/E	O	E	Already Open.
Caddo Lake NWR	Texas	Closed	O	Already Open	Closed.
Camas NWR	Idaho	O	Already Open	O	Closed.
Cape May NWR	New Jersey	O/E	O/E	E	E.
Cat Island NWR	Louisiana	O/E	O/E	E	Already Open.
Charles M. Russell NWR	Montana	Already Open	Already Open	O	Already Open.
Cherry Valley NWR	Pennsylvania	E	O/E	E	Already Open.
Choctaw NWR	Alabama	O	O/E	E	Already Open.
Crab Orchard NWR	Illinois	Already Open	Already Open	Already Open	E.
Cypress Creek NWR	Illinois	E	E	E	E.
Dale Bumpers White River NWR	Arkansas	O	Already Open	Already Open	Already Open.
Delta NWR	Louisiana	O/E	O/E	O/E	Already Open.
Desert NWR	Nevada	O	O	Already Open	Closed.
Don Edwards NWR	California	E	Closed	Closed	Already Open.
Eastern Shore of Virginia NWR	Virginia	O	O	O/E	O.
Elizabeth Hartwell Mason Neck NWR.	Virginia	Closed	Closed	E	O.
Ernest F. Hollings ACE Basin NWR.	South Carolina	Already Open	Closed	O	Already Open.
Everglades Headwaters NWR	Florida	E	E	E	Already Open.
Featherstone NWR	Virginia	N	Closed	Closed	N.
Felsenthal NWR	Arkansas	O/E	E	E	Already Open.
Fisherman Island NWR	Virginia	N	Closed	Closed	Closed.
Florida Panther NWR	Florida	Closed	Closed	N	N.
Franklin Island NWR	Maine	N	Closed	Closed	Closed.
Grand Bay NWR	Alabama & Mississippi	O	O	O	O.
Great Dismal Swamp NWR	Virginia	Closed	O	O/E	Already Open.
Great River NWR	Missouri	C	C	C	Already Open.
Great Swamp NWR	New Jersey	O	O	O/E	Closed.
Green Lake NFH	Maine	Closed	Closed	Closed	N.
Hackmatack NWR	Illinois	E	E	E	E.
Harbor Island NWR	Michigan	O	O	E	O.
Harris Neck NWR	Georgia	Closed	Closed	O/E	Already Open.
Havasu NWR	Arizona	O/E	O	Already Open	Already Open.
Holla Bend NWR	Arkansas	Closed	O/E	O/E	E.
J. Clark Salyer NWR	North Dakota	Already Open	E	E	Already Open.
James River NWR	Virginia	Closed	O	O/E	O.
Julia Butler Hansen Refuge	Oregon & Washington	E	Closed	Already Open	Already Open.
Kern NWR	California	O	Already Open	Closed	Closed.
Kootenai NWR	Idaho	Already Open	Already Open	Already Open	E.
Lacreek NWR	South Dakota	Already Open	Already Open	Already Open	E.

TABLE 1—CHANGES FOR 2021–2022 HUNTING/SPORT FISHING SEASON—Continued

Station	State	Migratory bird hunting	Upland game hunting	Big game hunting	Sport fishing
Lake Alice NWR	North Dakota	Already Open ..	E .....	E .....	Already Open.
Las Vegas NWR	New Mexico	O .....	O .....	O .....	Closed.
Mackay Island NWR	North Carolina & Virginia	O .....	Closed .....	O/E .....	Already Open.
Malheur NWR	Oregon	E .....	E .....	E .....	Already Open.
Mandalay NWR	Louisiana	O/E .....	O .....	E .....	Already Open.
Middle Mississippi River NWR	Missouri	Already Open ..	E .....	E .....	Already Open.
Minnesota Valley NWR	Minnesota	Already Open ..	Already Open ..	E .....	Already Open.
Missisquoi NWR	Vermont	Already Open ..	O .....	Already Open ..	Already Open.
Moosehorn NWR	Maine	E .....	E .....	E .....	Already Open.
Muleshoe NWR	Texas	N .....	N .....	N .....	Closed.
National Elk Refuge	Wyoming	Closed .....	Closed .....	O .....	Already Open.
Neal Smith NWR	Iowa	E .....	E .....	E .....	Closed.
Neches River NWR	Texas	N .....	N .....	N .....	Closed.
Northern Tallgrass Prairie NWR	Minnesota & Iowa	E .....	E .....	E .....	E.
Occoquan Bay NWR	Virginia	Closed .....	O .....	O/E .....	O.
Ohio River Islands NWR	Pennsylvania, Kentucky, & West Virginia.	O .....	O .....	O .....	Already Open.
Ottawa NWR	Ohio	E .....	E .....	E .....	E.
Ouray NWR	Utah	O .....	Already Open ..	O .....	Already Open.
Patoka River NWR	Indiana	E .....	E .....	E .....	E.
Petit Manan NWR	Maine	E .....	E .....	E .....	Closed.
Plum Tree Island NWR	Virginia	E .....	Closed .....	Closed .....	O.
Pond Island NWR	Maine	N .....	Closed .....	Closed .....	Closed.
Presquile NWR	Virginia	Closed .....	O .....	O/E .....	O.
Rappahannock River Valley NWR	Virginia	Closed .....	O .....	O/E .....	Already Open.
Red River NWR	Louisiana	O .....	O .....	Already Open ..	Already Open.
Rice Lake NWR	Minnesota	Already Open ..	Already Open ..	E .....	Already Open.
Sam D. Hamilton Noxubee NWR	Mississippi	O/E .....	O/E .....	E .....	Already Open.
Sequoyah NWR	Oklahoma	Already Open ..	Already Open ..	Already Open ..	E.
Sherburne NWR	Minnesota	O .....	E .....	E .....	Already Open.
Silvio O. Conte NWR	New Hampshire	E .....	O/E .....	E .....	E.
Sunkhaze Meadows NWR	Maine	Already Open ..	E .....	Already Open ..	Already Open.
Supawna Meadows NWR	New Jersey	O .....	O .....	O/E .....	E.
Tensas River NWR	Louisiana	O .....	O .....	O .....	Already Open.
UL Bend NWR	Montana	Already Open ..	Already Open ..	O .....	Already Open.
Upper Ouachita NWR	Louisiana	O/E .....	O .....	Already Open ..	Already Open.
Walkkill River NWR	New York & New Jersey	E .....	E .....	E .....	Already Open.
Wapanocca NWR	Arkansas	C .....	O .....	E .....	Already Open.
Waubay NWR	South Dakota	Closed .....	Closed .....	Already Open ..	E.
Wichita Mountains NWR	Oklahoma	Already Open ..	Closed .....	Already Open ..	E.
William L. Finley NWR	Oregon	O .....	Closed .....	E .....	Already Open.

**Key:**

N = New station opened (New Station).

O = New species and/or new activity on a station previously open to other activities (Opening).

E = Station already open to activity adds new lands/waters, modifies areas open to hunting or fishing, extends season dates, adds a targeted hunt, modifies season dates, modifies hunting hours, etc. (Expansion).

C = Station closing the activity on some or all acres (Closing).

The changes for the 2021–2022 hunting/fishing season noted in the table above are each based on a complete administrative record which, among other detailed documentation, also includes a hunt plan, a compatibility determination (for refuges), and the appropriate National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) analysis, all of which were the subject of a public review and comment process. These documents are available upon request.

Through these openings and expansions, we open or expand hunting or sport fishing on 2,066,116 acres within the National Wildlife Refuge System and the National Fish Hatchery System.

**Fish Advisory**

For health reasons, anglers should review and follow State-issued consumption advisories before enjoying recreational sport fishing opportunities on Service-managed waters. You can find information about current fish-consumption advisories on the internet at: <http://www.epa.gov/fish-tech>.

**Required Determinations**

*Regulatory Planning and Review (Executive Orders 12866 and 13563)*

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. OIRA has determined that this rulemaking is not significant.

Executive Order (E.O.) 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation’s regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open

exchange of ideas. We have developed this rule in a manner consistent with these requirements.

*Regulatory Flexibility Act*

Under the Regulatory Flexibility Act (as amended by the Small Business Regulatory Enforcement Fairness Act [SBREFA] of 1996) (5 U.S.C. 601 *et seq.*), whenever a Federal agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility

analysis is required if the head of an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Thus, for a regulatory flexibility analysis to be required, impacts must exceed a threshold for “significant impact” and a threshold for a “substantial number of small entities.” See 5 U.S.C. 605(b). SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

This rule opens or expands hunting and sport fishing on 88 NWRs and 1

NFH. As a result, visitor use for wildlife-dependent recreation on these stations will change. If the stations establishing new programs were a pure addition to the current supply of those activities, it would mean an estimated maximum increase of 40,839 user days (one person per day participating in a recreational opportunity; see Table 2). Because the participation trend is flat in these activities since 1991, this increase in supply will most likely be offset by other sites losing participants. Therefore, this is likely to be a substitute site for the activity and not necessarily an increase in participation rates for the activity.

TABLE 2—ESTIMATED MAXIMUM CHANGE IN RECREATION OPPORTUNITIES IN 2021–2022  
[Dollars in thousands]

Station	Additional hunting days	Additional fishing days	Additional expenditures
Audubon NWR	10		\$0.3
Bald Knob NWR	30		1.0
Bayou Sauvage NWR	344		11.6
Bayou Teche NWR	472		15.9
Big Branch Marsh NWR	120		4.0
Big Lake NWR	2		0.1
Bill Williams River NWR	66		2.2
Bogue Chitto NWR	45		1.5
Bond Swamp NWR	220	160	13.0
Brazoria NWR	86	365	15.7
Cache River NWR	60		2.0
Caddo Lake NWR	87		2.9
Camas NWR	250		8.4
Cape May NWR	100		3.4
Cat Island NWR	45		1.5
Charles M. Russell NWR	10		0.3
Cherry Valley NWR			
Choctaw NWR	82		2.8
Crab Orchard NWR		3,000	105.2
Cypress Creek NWR	15		0.5
Dale Bumpers White River NWR	132		4.4
Delta NWR	85		2.9
Desert NWR	103		3.5
Don Edwards NWR	118		4.0
Eastern Shore of Virginia NWR	414		13.9
Elizabeth Hartwell Mason Neck NWR		1,200	42.1
Ernest F. Hollings ACE Basin NWR	14		0.5
Everglades Headwaters NWR			
Featherstone NWR	670	1,200	64.7
Felsenthal NWR	1,000		33.7
Fisherman Island NWR	150		5.1
Florida Panther NWR	6	365	13.0
Franklin Island NWR	137		4.6
Grand Bay NWR	920	730	56.6
Great Dismal Swamp NWR	465		15.7
Great River NWR			
Great Swamp NWR	500		16.8
Green Lake NFH		365	12.8
Hackmatack NWR	40	30	2.4
Harbor Island NWR	62	100	5.6
Harris Neck NWR	68		2.3
Havasas NWR	89		3.0
Holla Bend NWR	100		3.4
J. Clark Salyer NWR	10		0.3
James River NWR	160	1,200	47.5
Julia Butler Hansen Refuge	50		1.7
Kern NWR	30		1.0
Kootenai NWR		50	1.8

TABLE 2—ESTIMATED MAXIMUM CHANGE IN RECREATION OPPORTUNITIES IN 2021–2022—Continued  
[Dollars in thousands]

Station	Additional hunting days	Additional fishing days	Additional expenditures
Lacreek NWR		15	0.5
Lake Alice NWR	10		0.3
Las Vegas NWR	28		0.9
Mackay Island NWR	200		6.7
Malheur NWR	232		7.8
Mandalay NWR	519		17.5
Middle Mississippi River NWR	10		0.3
Minnesota Valley NWR.			
Missisquoi NWR	400		13.5
Moosehorn NWR	50		1.7
Muleshoe NWR	75	10	2.9
National Elk Refuge	48		1.6
Neal Smith NWR	27		0.9
Neches River NWR	2,161		72.8
Northern Tallgrass Prairie NWR	69.6	5.48	2.5
Occoquan Bay NWR	280	1,200	51.5
Ohio River Islands NWR	530		17.9
Ottawa NWR	18	160	6.2
Ouray NWR	45		1.5
Patoka River NWR	15	2	0.6
Petit Manan NWR	700		23.6
Plum Tree Island NWR		300	10.5
Pond Island NWR	138		4.6
Presquile NWR	10	1,200	42.4
Rappahannock NWR	497		16.7
Red River NWR.			
Rice Lake NWR	48		1.6
Sam D. Hamilton Noxubee NWR	7		0.2
Sequoyah NWR		2,000	70.1
Sherburne NWR	444		15.0
Silvio O. Conte NWR	50	0	1.7
Sunkhaze Meadows NWR	10		0.3
Supawna Meadows NWR	500		16.8
Tensas River NWR	16		0.5
UL Bend NWR	10		0.3
Upper Ouachita NWR	45		1.5
Wallkill River NWR.			
Wapanocca NWR	130	90	7.5
Waubay NWR		15	0.5
Wichita Mountains NWR		12,123	425.2
William L. Finley NWR	264		8.9
<b>Total</b>	<b>14,954</b>	<b>25,885</b>	<b>1,411.5</b>

To the extent visitors spend time and money in the area of the station that they would not have spent there anyway, they contribute new income to the regional economy and benefit local businesses. Due to the unavailability of site-specific expenditure data, we use the national estimates from the 2016 National Survey of Fishing, Hunting, and Wildlife Associated Recreation to identify expenditures for food and lodging, transportation, and other incidental expenses. Using the average expenditures for these categories with the maximum expected additional participation of the Refuge System and the Hatchery System yields approximately \$1.4 million in recreation-related expenditures (see Table 2, above). By having ripple effects throughout the economy, these direct

expenditures are only part of the economic impact of these recreational activities. Using a national impact multiplier for hunting activities (2.51) derived from the report “Hunting in America: An Economic Force for Conservation” and for fishing activities (2.51) derived from the report “Sportfishing in America” yields a total maximum economic impact of approximately \$5.3 million (2020 dollars) (Southwick Associates, Inc., 2018). Using a local impact multiplier would yield more accurate and smaller results. However, we employed the national impact multiplier due to the difficulty in developing local multipliers for each specific region.

Since we know that most of the fishing and hunting occurs within 100 miles of a participant’s residence, then

it is unlikely that most of this spending will be “new” money coming into a local economy; therefore, this spending will be offset with a decrease in some other sector of the local economy. The net gain to the local economies will be no more than \$5.3 million, and likely less. Since 80 percent of the participants travel less than 100 miles to engage in hunting and fishing activities, their spending patterns will not add new money into the local economy and, therefore, the real impact will be on the order of about \$1.1 million annually.

Small businesses within the retail trade industry (such as hotels, gas stations, taxidermy shops, bait-and-tackle shops, and similar businesses) may be affected by some increased or decreased station visitation. A large percentage of these retail trade

establishments in the local communities around NWRs and NFHs qualify as small businesses (see Table 3, below). We expect that the incremental recreational changes will be scattered, and so we do not expect that the rule will have a significant economic effect

on a substantial number of small entities in any region or nationally. As noted previously, we expect at most \$1.4 million to be spent in total in the refuges' local economies. The maximum increase will be less than three-hundredths of 1 percent for local retail

trade spending (see Table 3, below). Table 3 does not include entries for those NWRs and NFHs for which we project no changes in recreation opportunities in 2021–2022; see Table 2, above.

TABLE 3—COMPARATIVE EXPENDITURES FOR RETAIL TRADE ASSOCIATED WITH ADDITIONAL STATION VISITATION FOR 2021–2022

[Thousands, 2020 dollars]

Station/county(ies)	Retail trade in 2017 <sup>1</sup>	Estimated maximum addition from new activities	Addition as % of total	Establishments in 2017 <sup>1</sup>	Establishments with fewer than 10 employees in 2017 <sup>1</sup>
Audubon					
McLean, ND .....	\$95,006	\$0.3	<0.01	39	29
Bald Knob					
White, AR .....	1,110,661	1.0	<0.01	311	234
Bayou Sauvage					
Orleans, LA .....	3,694,534	11.6	<0.01	1,343	1,021
Bayou Teche					
St. Mary, LA .....	559,081	15.9	<0.01	186	145
Big Branch Marsh					
St. Tammany, LA .....	4,242,548	4.0	<0.01	901	596
Big Lake					
Mississippi, AR .....	442,920	0.1	<0.01	144	115
Bill Williams River					
La Paz, AZ .....	475,421	1.1	<0.01	82	59
Mohave, AZ .....	3,234,501	1.1	<0.01	615	397
Bogue Chitto					
Washington, LA .....	352,900	0.5	<0.01	146	110
St. Tammany, LA .....	4,242,548	0.5	<0.01	901	596
Pearl River, MS .....	693,664	0.5	<0.01	186	132
Bond Swamp					
Bibb, GA .....	2,835,352	6.5	<0.01	780	555
Twiggs, GA .....	22,447	6.5	0.03	13	11
Brazoria					
Brazoria, TX .....	4,992,876	15.7	<0.01	831	546
Cache River					
Woodruff, AR .....	47,310	0.5	<0.01	31	26
Monroe, AR .....	66,530	0.5	<0.01	35	27
Jackson, AR .....	242,527	0.5	<0.01	68	48
Prairie, AR .....	54,178	0.5	<0.01	32	23
Caddo Lake					
Harrison, TX .....	638,384	2.9	<0.01	184	145
Camas					
Jefferson, ID .....	221,301	8.4	<0.01	56	37
Cape May					
Cape May, NJ .....	2,043,622	3.4	<0.01	644	502
Cat Island					
East Feliciana, LA .....	82,906	1.5	<0.01	41	30
Charles M. Russell					
Blaine, MT .....	43,638	<0.1	<0.01	22	16
Phillips, MT .....	46,381	<0.1	<0.01	24	17
McCone, MT .....	17,671	<0.1	<0.01	9	6
Fergus, MT .....	166,443	<0.1	<0.01	62	51
Petroleum, MT .....	D	<0.1	<0.01	3	3
Garfield, MT .....	14,204	<0.1	<0.01	4	2
Valley, MT .....	145,264	<0.1	<0.01	49	39
Choctaw					
Choctaw, AL .....	95,301	2.8	<0.01	55	42
Crab Orchard					
Williamson, IL .....	1,240,677	105.2	0.01	259	168
Cypress Creek					
Alexander, IL .....	19,644	0.5	<0.01	18	14
Dale Bumpers White River					
Arkansas, AR .....	319,247	1.1	<0.01	94	64
Monroe, AR .....	66,530	1.1	<0.01	35	27
Phillips, AR .....	156,413	1.1	<0.01	79	62
Desha, AR .....	130,625	1.1	<0.01	64	49
Delta					

TABLE 3—COMPARATIVE EXPENDITURES FOR RETAIL TRADE ASSOCIATED WITH ADDITIONAL STATION VISITATION FOR 2021–2022—Continued  
[Thousands, 2020 dollars]

Station/county(ies)	Retail trade in 2017 <sup>1</sup>	Estimated maximum addition from new activities	Addition as % of total	Establishments in 2017 <sup>1</sup>	Establishments with fewer than 10 employees in 2017 <sup>1</sup>
Plaquemines, LA .....	119,957	2.9	<0.01	65	52
Desert					
Clark, NV .....	33,837,749	3.5	<0.01	6,178	3,828
Don Edwards					
Alameda, CA .....	28,390,575	4.0	<0.01	4,347	2,923
Eastern Shore of Virginia					
Northampton, VA .....	117,772	13.9	0.01	59	45
Elizabeth Hartwell Mason Neck					
Fairfax, VA .....	1,818,140	42.1	<0.01	252	136
Ernest F. Hollings ACE Basin					
Charleston, SC .....	9,065,573	0.5	<0.01	2,003	1,334
Hampton, SC .....	178,354	0.5	<0.01	76	59
Lancaster, SC .....	825,599	0.5	<0.01	237	174
Featherstone, VA					
Prince William, VA .....	6,705,340	64.7	<0.01	1,164	683
Felsenthal					
Ashley, AR .....	193,246	11.2	0.01	68	53
Union, AR .....	591,376	11.2	<0.01	186	131
Bradley, AR .....	75,395	11.2	0.01	33	25
Fisherman Island					
Northampton, VA .....	117,772	5.1	<0.01	59	45
Florida Panther					
Collier, FL .....	7,710,838	13.0	<0.01	1,455	1,019
Franklin Island					
Knox, ME .....	760,425	4.6	<0.01	256	183
Grand Bay					
Mobile, AL .....	5,921,035	28.3	<0.01	1,514	1,040
Jackson, MS .....	1,410,824	28.3	<0.01	407	296
Great Dismal Swamp					
Suffolk City, VA .....	1,225,412	7.8	<0.01	229	148
Chesapeake City, VA .....	4,415,609	7.8	<0.01	782	445
Great Swamp					
Morris, NJ .....	11,015,983	16.8	<0.01	1,809	1,221
Green Lake					
Hancock, ME .....	1,001,578	12.8	<0.01	350	261
Hackamatack					
McHenry, IL .....	4,115,924	1.2	<0.01	938	607
Walworth, WI .....	1,596,199	1.2	<0.01	361	258
Harbor Island					
Chippewa, MI .....	521,726	5.6	<0.01	148	98
Harris Neck					
McIntosh, GA .....	96,007	2.3	<0.01	45	35
Havasu					
Mohave, AZ .....	3,234,501	3.0	<0.01	615	397
Holla Bend					
Pope, AR .....	945,241	1.7	<0.01	272	185
Yell, AR .....	132,972	1.7	<0.01	50	38
J. Clark Salyer					
Bottineau, ND .....	109,978	0.2	<0.01	29	21
McHenry, ND .....	33,913	0.2	<0.01	19	14
James River					
Prince George, VA .....	303,359	47.5	0.02	65	42
Julia Butler Hansen					
Clatsop, OR .....	808,973	0.6	<0.01	269	215
Columbia, OR .....	417,825	0.6	<0.01	119	77
Wahkiakum, WA .....	8,582	0.6	0.01	6	5
Kern					
Kern, CA .....	9,906,906	1.0	<0.01	1,966	1,250
Kootenai					
Boundary, ID .....	123,467	1.8	<0.01	47	37
Lacreek					
Meade, SD .....	325,901	0.5	<0.01	91	67
Lake Alice					
Bottineau, ND .....	109,978	0.2	<0.01	29	21
McHenry, ND .....	33,913	0.2	<0.01	19	14
Las Vegas					

TABLE 3—COMPARATIVE EXPENDITURES FOR RETAIL TRADE ASSOCIATED WITH ADDITIONAL STATION VISITATION FOR 2021–2022—Continued

[Thousands, 2020 dollars]

Station/county(ies)	Retail trade in 2017 <sup>1</sup>	Estimated maximum addition from new activities	Addition as % of total	Establishments in 2017 <sup>1</sup>	Establishments with fewer than 10 employees in 2017 <sup>1</sup>
San Miguel, NM .....	231,666	0.9	<0.01	79	49
Mackay Island					
Currituck, NC .....	327,336	3.4	<0.01	135	109
Virginia Beach City, VA .....	6,499,109	3.4	<0.01	1,468	893
Malheur					
Harney, OR .....	169,776	7.8	<0.01	29	17
Mandalay					
Terrebonne, LA .....	1,964,261	17.5	<0.01	475	317
Middle Mississippi River					
Perry, MO .....	294,900	0.3	<0.01	82	46
Missisquoi					
Franklin, VT .....	876,359	13.5	<0.01	176	112
Moosehorn					
Washington, ME .....	438,713	1.7	<0.01	141	88
Muleshoe					
Bailey, TX .....	49,284	2.9	0.01	21	15
National Elk Refuge					
Teton, WY .....	676,935	1.6	<0.01	255	211
Neal Smith					
Jasper, IA .....	408,507	0.9	<0.01	105	73
Neches River					
Cameron, TX .....	4,868,360	36.4	<0.01	1,084	686
Anderson, TX .....	631,510	36.4	0.01	167	124
Northern Tallgrass Prairie					
Murray, MN .....	60,148	0.6	<0.01	44	33
Kandiyohi, MN .....	914,193	0.6	<0.01	208	145
Clay, MN .....	779,998	0.6	<0.01	161	95
Clay, IA .....	504,926	0.6	<0.01	102	70
Occoquan Bay					
Prince William, VA .....	6,705,340	51.5	<0.01	1,164	683
Ohio River Islands					
Beaver, PA .....	1,717,000	4.5	<0.01	495	325
Boyd, KY .....	903,141	4.5	<0.01	236	137
Wood, OH .....	1,976,330	4.5	<0.01	369	218
Wood, WV .....	1,631,635	4.5	<0.01	361	210
Ottawa					
Ottawa, OH .....	467,388	6.2	<0.01	133	99
Ouray					
Uintah, UT .....	471,207	1.5	<0.01	134	88
Patoka River					
Pike, IN .....	67,144	0.3	<0.01	32	23
Gibson, IN .....	529,720	0.3	<0.01	116	76
Petit Manan					
Washington, ME .....	438,713	4.7	<0.01	141	88
Hancock, ME .....	1,001,578	4.7	<0.01	350	261
Knox, ME .....	760,425	4.7	<0.01	256	183
Lincoln, ME .....	511,948	4.7	<0.01	204	157
Cumberland, ME .....	7,424,447	4.7	<0.01	1,454	936
Plum Tree Island					
York, VA .....	1,014,306	10.5	<0.01	201	135
Pond Island					
Knox, ME .....	760,425	4.6	<0.01	256	183
Presquile					
Chesterfield, VA .....	7,122,893	42.4	<0.01	958	589
Rappahannock					
Essex, VA .....	233,522	3.3	<0.01	65	48
King George, VA .....	362,404	3.3	<0.01	64	42
Westmoreland, VA .....	122,436	3.3	<0.01	44	31
Richmond, VA .....	2,386,644	3.3	<0.01	795	578
Caroline, VA .....	324,067	3.3	<0.01	63	48
Rice Lake					
Aitkin, MN .....	148,260	1.6	<0.01	69	48
Sam D. Hamilton Noxubee					
Noxubee, MS .....	65,033	0.1	<0.01	40	35
Winston, MS .....	211,903	0.1	<0.01	86	67
Oktibbeha, MS .....	558,982	0.1	<0.01	173	130

TABLE 3—COMPARATIVE EXPENDITURES FOR RETAIL TRADE ASSOCIATED WITH ADDITIONAL STATION VISITATION FOR 2021–2022—Continued  
[Thousands, 2020 dollars]

Station/county(ies)	Retail trade in 2017 <sup>1</sup>	Estimated maximum addition from new activities	Addition as % of total	Establishments in 2017 <sup>1</sup>	Establishments with fewer than 10 employees in 2017 <sup>1</sup>
Sequoyah					
Sequoyah, OK .....	362,456	23.4	0.01	116	87
Muskogee, OK .....	958,492	23.4	<0.01	263	175
Haskell, OK .....	154,591	23.4	0.02	37	23
Sherburne					
Sherburne, MN .....	985,715	15.0	<0.01	203	126
Silvio O. Conte					
Coos, NH .....	575,506	0.6	<0.01	172	126
Essex, VT .....	14,718	0.6	<0.01	18	15
Windham, VT .....	606,157	0.6	<0.01	236	171
Sunkhaze Meadows					
Waldo, ME .....	417,407	0.1	<0.01	171	131
Kennebec, ME .....	2,624,338	0.1	<0.01	522	320
Penobscot, ME .....	3,443,680	0.1	<0.01	705	445
Supawna Meadows					
Salem County, NJ .....	607,072	16.8	<0.01	174	119
Tensas River					
Madison, LA .....	115,029	0.3	<0.01	32	20
Tensas, LA .....	25,165	0.3	<0.01	14	12
UL Bend					
Phillips, MT .....	46,381	0.3	<0.01	24	17
Upper Ouachita					
Union, LA .....	184,987	0.8	<0.01	56	45
Morehouse, LA .....	207,578	0.8	<0.01	74	53
Wapanocca					
Crittenden, AR .....	702,406	7.5	<0.01	149	104
Waubay					
Day, SD .....	86,538	0.5	<0.01	30	18
Wichita Mountains					
Comanche, OK .....	1,412,420	425.2	0.03	407	274
William L. Finley					
Linn, OR .....	1,504,418	8.9	<0.01	357	241

<sup>1</sup> U.S. Census Bureau. "D" denotes sample size too small to report data.

With the small change in overall spending anticipated from this rule, it is unlikely that a substantial number of small entities will have more than a small impact from the spending change near the affected stations. Therefore, we certify that this rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). A regulatory flexibility analysis is not required. Accordingly, a small entity compliance guide is not required.

*Small Business Regulatory Enforcement Fairness Act*

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. We anticipate no significant employment or small business effects. This rule:

a. Will not have an annual effect on the economy of \$100 million or more. The minimal impact would be scattered

across the country and will most likely not be significant in any local area.

b. Will not cause a major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. This rule will have only a slight effect on the costs of hunting opportunities for Americans. If the substitute sites are farther from the participants' residences, then an increase in travel costs will occur. The Service does not have information to quantify this change in travel cost but assumes that, since most people travel less than 100 miles to hunt, the increased travel cost will be small. We do not expect this rule to affect the supply or demand for hunting opportunities in the United States, and, therefore, it should not affect prices for hunting equipment and supplies, or the retailers that sell equipment.

c. Will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to

compete with foreign-based enterprises. This rule represents only a small proportion of recreational spending at NWRs. Therefore, this rule will have no measurable economic effect on the wildlife-dependent industry, which has annual sales of equipment and travel expenditures of \$72 billion nationwide.

*Unfunded Mandates Reform Act*

Since this rule will apply to public use of federally owned and managed refuges, it will not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than \$100 million per year. This rule will not have a significant or unique effect on State, local, or Tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

*Takings (E.O. 12630)*

In accordance with E.O. 12630, this rule will not have significant takings



implications. This rule will affect only visitors at NWRs and NFHs, and describes what they can do while they are on a Service station.

#### *Federalism (E.O. 13132)*

As discussed under *Regulatory Planning and Review and Unfunded Mandates Reform Act*, above, this rule will not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement under E.O. 13132. In preparing this rule, we worked with State governments.

#### *Civil Justice Reform (E.O. 12988)*

In accordance with E.O. 12988, the Department of the Interior has determined that this rule will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order.

#### *Energy Supply, Distribution or Use (E.O. 13211)*

On May 18, 2001, the President issued E.O. 13211 on regulations that significantly affect energy supply, distribution, and use. E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. Because this rule adds 7 NWRs to the list of refuges open to hunting and sport fishing, opens or expands hunting or sport fishing at 81 other NWRs, and opens 1 NFH to sport fishing, it is not a significant regulatory action under E.O. 12866, and we do not expect it to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action, and no Statement of Energy Effects is required.

#### *Consultation and Coordination With Indian Tribal Governments (E.O. 13175)*

In accordance with E.O. 13175, we have evaluated possible effects on federally recognized Indian tribes and have determined that there are no effects. We coordinate recreational use on NWRs and NFHs with Tribal governments having adjoining or overlapping jurisdiction before we propose the regulations.

#### *Paperwork Reduction Act (PRA)*

This final rule contains existing and new information collections that we have submitted to the Office of Management and Budget (OMB) for review and approval under the Paperwork Reduction Act of 1995 (PRA, 44 U.S.C. 3501 *et seq.*). All information collections require approval by the OMB under the PRA. We may not conduct or sponsor and you are not required to respond to a collection of information

unless it displays a currently valid OMB control number. The OMB has reviewed and approved the information collection requirements associated with hunting and sport fishing activities across the National Wildlife Refuge System and National Fish Hatchery System and assigned the following OMB control numbers:

- 1018–0140, “Hunting and Sport Fishing Application Forms and Activity Reports for National Wildlife Refuges, 50 CFR 25.41, 25.43, 25.51, 26.32, 26.33, 27.42, 30.11, 31.15, 32.1 to 32.72” (Expires 12/31/2023),
- 1018–0102, “National Wildlife Refuge Special Use Permit Applications and Reports, 50 CFR 25, 26, 27, 29, 30, 31, 32, & 36” (Expires 01/31/2024),
- 1018–0135, “Electronic Federal Duck Stamp Program” (Expires 01/31/2023),
- 1018–0093, “Federal Fish and Wildlife Permit Applications and Reports—Management Authority; 50 CFR 13, 15, 16, 17, 18, 22, 23” (Expires 08/31/2023), and
- 1024–0252, “The Interagency Access Pass and Senior Pass Application Processes” (Expires 09/30/2023).

In accordance with the PRA and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on our request to revise OMB control number 1018–0140. This helps us assess the impact of our information collection requirements and minimize the public’s reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

The Service’s final rule (RIN 1018–BF09) opens, for the first time, hunting and sport fishing on seven NWRs, opens or expands hunting and sport fishing at 81 other NWRs, and opens hunting or sport fishing on one unit of the NFH. The additional burden associated with these new or expanded hunting and sport fishing opportunities, as well as the revised information collections identified below, require OMB approval.

Many refuges offer hunting and sport fishing activities without collecting any information. Those refuges that do collect hunter and angler information do so seasonally, usually once a year at the beginning of the hunting or sport fishing season. Some refuges may elect to collect the identical information via a non-form format (letter, email, or through discussions in person or over the phone). Some refuges provide the form electronically over the internet. In some cases, because of high demand and limited resources, we often provide

hunt opportunities by lottery, based on dates, locations, or type of hunt.

The requested changes to the existing information collections identified below require OMB approval:

#### *Hunting Applications/Permit (FWS Form 3–2439, Hunt Application—National Wildlife Refuge System)*

Form 3–2439 collects the following information from individuals seeking hunting experiences on the NWRs:

- *Lottery Application:* Refuges who administer hunting via a lottery system will use Form 3–2439 as the lottery application. If the applicant is successful, the completed Form 3–2439 also serves as their permit application, avoiding a duplication of burden on the public filling out two separate forms.
- *Date of application:* We often have application deadlines and this information helps staff determine the order in which we received the applications. It also ensures that the information is current.

- *Methods:* Some refuges hold multiple types of hunts, *i.e.*, archery, shotgun, primitive weapons, etc. We ask for this information to identify which opportunity(ies) a hunter is applying for.

- *Species Permit Type:* Some refuges allow only certain species, such as moose, elk, or bighorn sheep to be hunted. We ask hunters to identify which species hunt they are applying for.

- *Applicant information:* We collect name, address, phone number(s), and email so we can contact the applicant/permittee either during the application process, when the applicant is successful in a lottery drawing, or after receiving a permit.

- *Party Members:* Some refuges allow the permit applicant to include additional hunters in their group. We collect the names of all additional hunters, when allowed by the refuge.

- *Parent/Guardian Contact Information:* We collect name, relationship, address, phone number(s), and email for a parent/guardian of youth hunters. We ask for this information in the event of an emergency.

- *Date:* We ask hunters for their preferences for hunt dates.

- *Hunt/Blind Location:* We ask hunters for their preferences for hunt units, areas, or blinds.

- *Special hunts:* Some refuges hold special hunts for youth, hunters who are disabled, or other underserved populations. We ask hunters to identify if they are applying for these special hunts. For youth hunts, we ask for the age of the hunter at the time of the hunt.

• *Signature and date:* To confirm that the applicant (and parent/guardian, if a youth hunter) understands the terms and conditions of the permit.

*Requested revisions to FWS Form 3-2439:*

With this submission, we updated the title of the form to include NFHs. We also updated the Privacy Act Statement on the form to include applicability to all hunting permits (rather than only migratory bird hunting) and to also include references to authorized hunting on NFHs.

#### Harvest/Fishing Activity Reports

We have four harvest/fishing activity reports, depending on the species. We ask users to report on their success after their experience so that we can evaluate hunt quality and resource impacts. We requested to use the following activity reports, which we distribute during appropriate seasons, as determined by State or Federal regulations:

- FWS Form 3-2359 (Big Game Harvest Report).
- FWS Form 3-2360 (Sport Fishing Report).
- FWS Form 3-2361 (Migratory Bird Hunt Report).
- FWS Form 3-2362 (Upland/Small Game/Furbearer Report).

We collect the following information on the harvest reports:

- *Name of refuge and location:* We ask this to track responses by location, which is important when we manage more than one refuge or activity area from one office.
- *Date:* We ask when the hunter/angler participated in the activity. This helps us identify use trends so we have resources available.
- *Hours/Time in/out:* We ask this to determine how long the hunter/angler participated in the activity. We also use this to track use so we can allocate resources appropriately.
- *Name, City, State:* We ask for a name so we can identify the user. We ask for residence information to help establish use patterns (if users are local or traveling).
- *Number harvested/caught based on species:* We ask this to determine the impacts on wildlife/fish populations, relative success, and quality of experience.
- *Species harvested/caught:* We ask this to determine the impacts on wildlife/fish populations, relative success, and quality of experience.

*Requested revisions to harvest activity reports:*

With this submission, we requested approval of a new harvest form (FWS Form 3-2542, "Hunter Harvest Report") to replace FWS Forms 3-2359, 3-2361,

and 3-2362 to simplify reporting requirements and to reduce burden on the public. In addition to the fields previously approved by OMB on the original three harvest report forms, we added the following additional fields to aid the refuge in management of the reports:

- *State-issued hunter identification (ID)/license number (NOTE: Refuges/hatcheries that rely on the State agency to issue hunting permits are not required to collect the permittee's personal identifying information (PII) on the harvest form. Those refuges/hatcheries may opt to collect only the State ID number assigned to the hunter in order to match harvest data with their issued permit. Refuges/hatcheries will collect either hunter PII or State-issued ID number, but not both.)*
- *Species observed—Data will be used by refuge/hatchery staff to document the presence of rare or unusual species.*
- *Permit number/type—Data will be used to link the harvest report to the issued permit.*
- *Hunt Tag Number—Data will be used to link the harvest report to the species-specific hunt tag.*
- *Number of youth (younger than age 18) in party—Data will be used to better understand volume of youth hunting on a refuge/hatchery. Specific hunter names are not collected, just total number of youths in hunting party.*
- *Harvested by—Data will be used to determine ratio of adults to youth hunters. Specific hunter names are not collected.*
- *Species observed—Data will be used by a refuge/hatchery to determine the presence of any unusual species (e.g., threatened or endangered species, or invasive species).*

#### Self-Clearing Check-In Permit (FWS Form 3-2405)

FWS Form 3-2405 has three parts:

- *Self-Clearing Daily Check-in Permit.* Each user completes this portion of the form (date of visit, name, and telephone numbers) and deposits it in the permit box prior to engaging in any activity on the refuge.
- *Self-Clearing Daily Visitor Registration Permit.* Each user must complete the front side of the form (date, name, city, State, zip code, and purpose of visit) and carry this portion while on the refuge. At the completion of the visit, each user must complete the reverse side of the form (number of hours on refuge, harvest information (species and number), harvest method, angler information (species and number), and wildlife sighted (e.g.,

black bear and hog)) and deposit it in the permit box.

• *Self-Clearing Daily Vehicle Permit.* The driver and each user traveling in the vehicle must complete this portion (date) and display in clear view in the vehicle while on the refuge.

We use FWS Form 3-2405 to collect:

- *Information on the visitor (name, address, and contact information).* We use this information to identify the visitor or driver/passenger of a vehicle while on the refuge. This is extremely valuable information should visitors become lost or injured. Law enforcement officers can easily check vehicles for these cards in order to determine a starting point for the search or to contact family members in the event of an abandoned vehicle. Having this information readily available is critical in a search and rescue situation.
- *Purpose of visit (hunting, sport fishing, wildlife observation, wildlife photography, auto touring, birding, hiking, boating/canoeing, visitor center, special event, environmental education class, volunteering, other recreation).* This information is critical in determining public use participation in wildlife management programs. This not only allows the refuge to manage its hunt and other visitor use programs, but also to increase and/or improve facilities for non-consumptive uses that are becoming more popular on refuges. Data collected will also help managers better allocate staff and resources to serve the public as well as develop annual performance measures.
- *Success of harvest by hunters/anglers (number and type of harvest/caught).* This information is critical to wildlife management programs on refuges. Each refuge will customize the form by listing game species and incidental species available on the refuge, hunting methods allowed, and data needed for certain species (e.g., for deer, whether it is a buck or doe and the number of points; or for turkeys, the weight and beard and spur lengths).
- *Visitor observations of incidental species.* This information will help managers develop annual performance measures and it provides information to help develop resource management planning.
- *Photograph of animal harvested (specific refuges only).* This requirement documents the sex of animal prior to the hunter being eligible to harvest the opposite sex (where allowed).
- *Date of visit and/or area visited.*
- *Comments.* We encourage visitors to comment on their experience.

*Requested revisions to FWS Form 3-2405:*

With this submission, we added vehicle license plate number, State issued, and make/model of vehicle fields as optional fields for refuges/hatcheries. This information is required by law enforcement purposes for search and rescue/emergency response activities, as well as to verify ownership of vehicles in the event of damage on the refuge/hatchery, accidents, or other related law enforcement purposes.

We have not requested any changes to the remaining information collections identified below, which are currently approved by OMB:

**Sport Fishing Application/Permit (FWS Form 3–2358, “Sport Fishing-Shrimping-Crabbing-Frogging Permit Application”)**

Form 3–2358 allows the applicant to choose multiple permit activities, and requests the applicant provide the state fishing license number. The form provides the refuge with more flexibility to insert refuge-specific requirements/instructions, along with a permit number and validity dates for season issued.

We collect the following information from individuals seeking sport fishing experiences:

- *Date of application:* We often have application deadlines and this information helps staff determine the order in which we received the applications. It also ensures that the information is current.

- *State fishing license number:* We ask for this information to verify the applicant is legally licensed by the State (where required).

- *Permit Type:* On sport fishing permits, we ask what type of activity

(crabbing, shrimping, frogging, etc.) is being applied for.

- *Applicant information:* We collect name, address, phone number(s), and email so we can contact the applicant/permittee either during the application process or after receiving a permit.

- *Signature and date:* To confirm that the applicant (and parent/guardian, if a youth hunter) understands the terms and conditions of the permit.

**Labeling/Marking Requirements**

As a condition of the permit, some refuges require permittees to label hunting and/or sport fishing gear used on the refuge. This equipment may include items such as the following: Tree stands, blinds, or game cameras; hunting dogs (collars); flagging/trail markers; boats; and/or sport fishing equipment such as jugs, trotlines, and crawfish or crab traps. Refuges require the owner label their equipment with their last name, the State-issued hunting/fishing license number, and/or hunting/fishing permit number. Refuges may also require equipment for youth hunters include “YOUTH” on the label. This minimal information is necessary in the event the refuge needs to contact the owner.

**Required Notifications**

On occasion, hunters may find their game has landed outside of established hunting boundaries. In this situation, hunters must notify an authorized refuge employee to obtain consent to retrieve the game from an area closed to hunting or entry only upon specific consent. Certain refuges also require hunters to notify the refuge manager when hunting specific species (e.g.,

black bear, bobcat, or eastern coyote) with trailing dogs. Refuges encompassing privately owned lands, referred to as “easement overlay refuges” or “limited-interest easement refuges,” may also require the hunter obtain written or oral permission from the landowner prior to accessing the land.

Due to the wide range of hunting and sport fishing opportunities offered on the NWRs and NFHs, the refuges and fish hatcheries may customize the forms to remove any fields that are not pertinent to the recreational opportunities they offer. Refuges will not add any new fields to the forms, but the order of the fields may be reorganized. Refuges may also customize the forms with instructions and permit conditions specific to a particular unit for the hunting/sport fishing activity.

*Title of Collection:* Hunting and Fishing Application Forms and Activity Reports for National Wildlife Refuges and National Fish Hatcheries, 50 CFR 32 and 71.

*OMB Control Number:* 1018–0140.

*Form Number:* FWS Forms 3–2358, 3–2360, 3–2405, 3–2439, and 3–2542.

*Type of Review:* Revision of a currently approved collection.

*Respondents/Affected Public:* Individuals and households.

*Respondent’s Obligation:* Required to Obtain or Retain a Benefit.

*Frequency of Collection:* On occasion.

*Estimated Annual Non-Hour Burden Cost:* None.

Activity	Annual number of responses	Completion time per response	Total annual burden hours
Fish/Crab/Shrimp Application/Permit (Form 3–2358) .....	2,659	5 minutes	222
Harvest Reports (Forms 3–2360 and 3–2542 <i>NEW</i> ) .....	590,986	15 minutes	147,747
Hunt Application/Permit (Form 3–2439) .....	360,998	10 minutes	60,166
Labeling/Marking Requirements .....	2,326	10 minutes	388
Required Notifications .....	489	30 minutes	245
Self-Clearing Check-In Permit (Form 3–2405) .....	672,945	5 minutes	56,079
<b>Totals .....</b>	<b>1,630,403</b>	<b>.....</b>	<b>264,847</b>

The above burden estimates indicate an expected total of 1,630,403 responses and 264,847 burden hours across all of our forms. These totals reflect expected increases of 24,331 responses and 3,963 burden hours relative to our previous information collection request. We expect such burden increases as a direct result of the increased number of hunting and fishing opportunities on Service stations under the rule.

As part of our continuing effort to reduce paperwork and respondent burdens, and in accordance with 5 CFR 1320.8(d)(1), we invite the public and other Federal agencies to comment on any aspect of this revision to an existing information collection, including:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the

agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those

who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of response.

On May 4, 2021, we published a proposed rule (86 FR 23794) which solicited comments on the information collection requirements described in this supporting statement for a period of 60 days, ending July 6, 2021. We received no comments regarding the information collection requirements in response to the proposed rule.

This final rule is effective immediately upon publication, for the reasons set forth above under Effective Date. We will, however, accept and consider all public comments concerning the information collection requirements received in response to this final rule. Send your written comments and suggestions on this information collection to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: PRB (JAO/3W), Falls Church, VA 22041-3803 (mail); or [Info\\_Coll@fws.gov](mailto:Info_Coll@fws.gov) (email). Please reference "OMB Control Number 1018-0140" in the subject line of your comments.

#### *Endangered Species Act Section 7 Consultation*

We comply with section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), when developing comprehensive conservation plans and step-down management plans—which would include hunting and/or fishing plans—for public use of refuges and hatcheries, and prior to implementing any new or revised public recreation program on a station as identified in 50 CFR 26.32. We have completed section 7 consultations on each of the affected stations.

#### *National Environmental Policy Act*

We analyzed this rule in accordance with the criteria of the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4332(C)), 43 CFR part 46, and 516 Departmental Manual (DM) 8.

A categorical exclusion from NEPA documentation applies to publication of amendments to station-specific hunting and fishing regulations because they are technical and procedural in nature, and the environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis (43 CFR 46.210 and 516 DM 8). Concerning the actions that are the subject of this rulemaking, we have complied with

NEPA at the project level when developing each action. This is consistent with the Department of the Interior instructions for compliance with NEPA where actions are covered sufficiently by an earlier environmental document (43 CFR 46.120).

Prior to the addition of a refuge or hatchery to the list of areas open to hunting and fishing in 50 CFR parts 32 and 71, we develop hunting and fishing plans for the affected stations. We incorporate these station hunting and fishing activities in the station comprehensive conservation plan and/or other step-down management plans, pursuant to our refuge planning guidance in 602 Fish and Wildlife Service Manual (FW) 1, 3, and 4. We prepare these comprehensive conservation plans and step-down plans in compliance with section 102(2)(C) of NEPA, the Council on Environmental Quality's regulations for implementing NEPA in 40 CFR parts 1500 through 1508, and the Department of Interior's NEPA regulations 43 CFR part 46. We invite the affected public to participate in the review, development, and implementation of these plans. Copies of all plans and NEPA compliance are available from the stations at the addresses provided below.

#### **Available Information for Specific Stations**

Individual refuge and hatchery headquarters have information about public use programs and conditions that apply to their specific programs and maps of their respective areas. To find out how to contact a specific refuge or hatchery, contact the appropriate Service office for the States listed below:

Hawaii, Idaho, Oregon, and Washington. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, Eastside Federal Complex, Suite 1692, 911 NE 11th Avenue, Portland, OR 97232-4181; Telephone (503) 231-6203.

Arizona, New Mexico, Oklahoma, and Texas. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, P.O. Box 1306, 500 Gold Avenue SW, Albuquerque, NM 87103; Telephone (505) 248-6635.

Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 5600 American Blvd. West, Suite 990, Bloomington, MN 55437-1458; Telephone (612) 713-5476.

Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Puerto Rico, and the Virgin Islands. Regional Chief, National Wildlife Refuge

System, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Atlanta, GA 30345; Telephone (404) 679-7356.

Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, MA 01035-9589; Telephone (413) 253-8307.

Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 134 Union Blvd., Lakewood, CO 80228; Telephone (303) 236-4377.

Alaska. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 1011 E. Tudor Rd., Anchorage, AK 99503; Telephone (907) 786-3545.

California and Nevada. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room W-2606, Sacramento, CA 95825; Telephone (916) 767-9241.

#### **Primary Author**

Christian Myers, Division of Natural Resources and Conservation Planning, National Wildlife Refuge System, is the primary author of this rulemaking document.

#### **List of Subjects**

##### *50 CFR Part 32*

Fishing, Hunting, Reporting and recordkeeping requirements, Wildlife, Wildlife refuges.

##### *50 CFR Part 71*

Fish, Fishing, Wildlife.

#### **Signing Authority**

The Assistant Secretary for Fish and Wildlife and Parks approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of the Interior. Shannon Estenoz, Assistant Secretary for Fish and Wildlife and Parks, approved this document on August 10, 2021, for publication.

#### **Regulation Promulgation**

For the reasons set forth in the preamble, we amend title 50, chapter I, subchapters C and E of the Code of Federal Regulations as follows:

**SUBCHAPTER C—THE NATIONAL WILDLIFE REFUGE SYSTEM**

**PART 32—HUNTING AND FISHING**

■ 1. The authority citation for part 32 continues to read as follows:

**Authority:** 5 U.S.C. 301; 16 U.S.C. 460k, 664, 668dd–668ee, and 715i; Pub. L. 115–20, 131 Stat. 86.

■ 2. Amend § 32.7 by:

■ a. Redesignating paragraphs (i)(6) through (15) as paragraphs (i)(7) through (16) and adding a new paragraph (i)(6);

■ b. Revising paragraph (s);

■ c. Removing paragraph (z)(17);

■ d. Redesignating paragraphs (z)(18) through (25) as paragraphs (z)(17) through (24);

■ e. Redesignating paragraphs (qq)(12) through (14) as paragraphs (qq)(14) through (16) and adding new paragraphs (qq)(12) and (13); and

■ f. Redesignating paragraphs (tt)(5) through (12) as paragraphs (tt)(7) through (14) and adding new paragraphs (tt)(5) and (6).

The additions and revision read as follows:

**§ 32.7 What refuge units are open to hunting and/or sport fishing?**

\* \* \* \* \*

(j) \* \* \*

(6) Florida Panther National Wildlife Refuge.

\* \* \* \* \*

(s) *Maine.* (1) Franklin Island National Wildlife Refuge.

(2) Moosehorn National Wildlife Refuge.

(3) Petit Manan National Wildlife Refuge.

(4) Pond Island National Wildlife Refuge.

(5) Rachel Carson National Wildlife Refuge.

(6) Sunhaze Meadows National Wildlife Refuge.

(7) Umbagog National Wildlife Refuge.

\* \* \* \* \*

(qq) \* \* \*

(12) Mulshoe National Wildlife Refuge.

(13) Neches River National Wildlife Refuge.

\* \* \* \* \*

(tt) \* \* \*

(5) Featherstone National Wildlife Refuge.

(6) Fisherman Island National Wildlife Refuge.

\* \* \* \* \*

■ 3. Amend § 32.20 by:

■ a. Adding paragraph (c)(1);

■ b. Revising paragraphs (c)(2) and (3);

■ c. Removing paragraph (c)(4)(ii); and

■ d. Redesignating paragraphs (c)(4)(iii) through (v) as paragraphs (c)(4)(ii) through (iv).

The addition and revisions read as follows:

**§ 32.20 Alabama.**

\* \* \* \* \*

(c) *Choctaw National Wildlife Refuge—(1) Migratory game bird hunting.* We allow hunting of duck, light and dark geese, coot, and merganser on designated areas of the refuge subject to the following conditions:

(i) We only allow migratory game bird hunting during the Special Youth, Veteran, and Active Military Personnel Waterfowl Hunting Days determined by the State. Regular waterfowl season shooting hours, bag limits, and legal arms and ammunition apply to the special days.

(ii) You must remove all decoys, blind materials, and harvested game from the refuge (see § 27.93 of this chapter) by 1 p.m. each day.

(iii) Hunters may enter the refuge at 4 a.m. and must stop hunting at 12 p.m. (noon) each day.

(iv) We allow the use of dogs for retrieval of migratory birds.

(v) We allow the incidental take of coyote, beaver, opossum, nutria, raccoon, and feral hog during any refuge hunt with the weapons legal for that hunt, as governed by the State of Alabama.

(2) *Upland game hunting.* We allow hunting of squirrel and rabbit, and incidental take of coyote, beaver, raccoon, opossum, and nutria, on designated areas of the refuge subject to the following conditions:

(i) We prohibit leaving unattended personal property, including, but not limited to, boats or vehicles of any type, geocaches, lumber, and cameras, overnight on the refuge (see § 27.93 of this chapter).

(ii) All persons age 15 or younger, while hunting on the refuge, must be in the presence and under direct supervision of a licensed or exempt hunter age 21 or older. A licensed hunter supervising a youth must hold a valid State license for the species being hunted. One adult may supervise no more than two youth hunters.

(iii) We allow the use of dogs when hunting squirrel and rabbit.

(iv) Hunters may only hunt during designated days and times.

(v) The condition set forth at paragraph (c)(1)(v) of this section applies.

(3) *Big game hunting.* We allow hunting of white-tailed deer and incidental take of feral hog subject to the following conditions:

(i) The conditions set forth at paragraphs (c)(1)(v), and (c)(2)(i) and (ii) of this section apply.

(ii) Deer hunters may place one portable stand or blind on the refuge for use while deer hunting, but only during the open deer season. The stand must be clearly labeled with the hunter's State hunting license number. You may leave the stand or blind on the refuge overnight during the deer season.

(iii) While climbing a tree, installing a tree stand that uses climbing aids, or hunting from a tree stand on the refuge, hunters must use a fall-arrest system (full body harness) that is manufactured to the Tree Stand Manufacturers Association's standards.

(iv) Deer hunts are archery only except during the State Special Opportunity Areas (SOA) hunt.

(v) The State SOA hunt will occur 4 days per year on the refuge as specified by State SOA regulations.

(vi) Hunters must be selected for and possess a State limited quota permit in order to participate in the State SOA hunt on the refuge.

(vii) We allow the use of muzzleloaders only during the State SOA hunt.

\* \* \* \* \*

■ 4. Amend § 32.22 by:

■ a. Revising paragraphs (a)(1) through (3), (b)(1)(iii), (c)(1)(i), (c)(2) introductory text, (c)(3)(ii), and (e);

■ b. Adding paragraphs (h)(1)(iv) and (v); and

■ c. Revising paragraphs (h)(2)(ii) and (iii), and (h)(3)(ii).

The revisions and additions read as follows:

**§ 32.22 Arizona.**

\* \* \* \* \*

(a) \* \* \* (1) *Migratory game bird hunting.* We allow hunting of mourning and white-winged dove on designated areas of the refuge subject to the following conditions:

(i) We allow only shotguns and archery equipment for hunting.

(ii) We prohibit hunting within 50 yards (45 meters) of any road or trail open to public use and within ¼ mile (402 meters) of any building.

(iii) You must remove boats, equipment, temporary blinds, stands, etc., at the end of each day's activities (see § 27.93 of this chapter).

(iv) Hunters may enter the refuge ½ hour before legal sunrise and must leave the refuge no later than ½ hour after legal sunset.

(2) *Upland game hunting.* We allow hunting of Gambel's quail, Eurasian collared-dove, cottontail rabbit, coyote, gray fox, and kit fox on designated areas

of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (a)(1)(i) through (iv) of this section apply, except that we also allow muzzleloading shotguns for cottontail rabbit hunting.

(ii) We allow hunting of Gambel's quail in alignment with the State quail season.

(iii) We allow hunting of cottontail rabbit from September through February aligning with the beginning of the State dove season and the end of the State quail season.

(iv) We allow hunting of Eurasian collared-dove during the State mourning and white-winged dove season.

(v) We prohibit night hunting from 1/2 hour after legal sunset until 1/2 hour before legal sunrise the following day.

(3) *Big game hunting.* We allow hunting of desert bighorn sheep and javelina on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (a)(1)(ii) through (iv) of this section apply.

(ii) We allow the use of rifles, muzzleloaders, and archery for desert bighorn sheep hunting.

(iii) We allow shotguns shooting slugs and archery equipment for javelina hunting.

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(iii) We allow the use of dogs when hunting.

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(i) We require hunters to obtain a visitor access permit (Department of Defense form/requirement) from the refuge.

\* \* \* \* \*

(2) *Upland game hunting.* We allow hunting of Gambel's quail, Eurasian collared-dove, desert cottontail rabbit, antelope jackrabbit and black-tailed jackrabbit, coyote, bobcat, and kit and gray fox in designated areas of the refuge subject to the following conditions:

\* \* \* \* \*

(3) \* \* \*

(ii) We require Special Use Permits for all guides (FWS Form 3-1383-C), stock animals (FWS Form 3-1383-G), and bighorn sheep hunters (FWS Form 3-1383-G).

\* \* \* \* \*

(e) *Havasu National Wildlife Refuge—(1) Migratory game bird hunting.* We allow hunting of mourning and white-winged dove, duck, American coot,

common gallinule, goose, and snipe on designated areas of the refuge subject to the following conditions:

(i) We prohibit falconry.

(ii) We allow only shotguns, crossbows, and archery equipment for hunting.

(iii) You must remove all decoys, boats, trash items, cameras, temporary blinds, stands, and other equipment at the end of each day's activities (see §§ 27.93 and 27.94 of this chapter).

(iv) We allow the use of dogs when hunting.

(v) The following conditions apply to Pintail Slough (Quota Hunt Area):

(A) We require a fee for Quota waterfowl hunting.

(B) We limit the number of persons at each waterfowl hunt blind or field to four. Observers cannot hold shells or guns for hunting unless in possession of a valid State hunting license and stamps.

(C) Waterfowl hunters must hunt within the designated boundaries of their assigned blind or field.

(D) You may use only native vegetation or materials for making or fixing hunt blinds.

(E) We allow waterfowl hunting on Wednesdays, Saturdays, and Sundays. Waterfowl hunting ends at 2 p.m. MST (Mountain Standard Time). Hunters must be out of the Pintail Slough area by 3 p.m. MST.

(F) We allow dove hunting at the Pintail Slough Quota Hunt Area outside the general State waterfowl season.

(2) *Upland game hunting.* We allow hunting of Gambel's quail, cottontail rabbit, Eurasian collared-dove, African collared-dove, black-tailed jackrabbit, bobcat, coyote, gray fox, and kit fox on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (e)(1)(i) through (iv) of this section apply, except that we also allow pneumatic weapons, muzzleloaders, and hand guns for upland game hunting.

(ii) We prohibit night hunting from 1/2 hour after legal sunset until 1/2 hour before legal sunrise the following day.

(iii) We allow hunting of Gambel's quail, cottontail rabbit, Eurasian collared-dove, African collared-dove, black-tailed jackrabbit, bobcat, coyote, gray fox, and kit fox from September 1-March 15.

(iv) We allow the incidental take of Gambel's quail, cottontail rabbit, Eurasian collared-dove, African collared-dove, black-tailed jackrabbit, bobcat, coyote, gray fox, and kit fox in the Pintail Slough Quota Hunt Area during the general State waterfowl season by hunters possessing a valid

permit (FWS Form 3-2439) at their designated waterfowl hunt blind or field.

(3) *Big game hunting.* We allow hunting of desert bighorn sheep and the incidental take of feral hog on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (e)(1)(i) and (iii) of this section apply.

(ii) We allow only rifles for desert bighorn sheep hunting.

(4) *Sport fishing.* We allow fishing on designated areas of the refuge subject to the following conditions:

(i) The condition set forth at paragraph (e)(1)(iii) of this section applies.

(ii) We prohibit overnight boat mooring and shore anchoring unless actively fishing, as governed by State regulations.

\* \* \* \* \*

(h) \* \* \*

(1) \* \* \*

(iv) You must remove all equipment, cameras, temporary blinds, stands, etc., at the end of each day's activities (see § 27.93 of this chapter).

(v) We allow Eurasian collared-dove hunting only during mourning and white-winged dove seasons.

(2) \* \* \*

(ii) We prohibit night hunting from 1/2 hour after legal sunset until 1/2 hour before legal sunrise the following day.

(iii) We allow quail hunting during State seasons. For all other upland game species, we only allow hunting when a species season dates overlap with a general or archery State deer or javelina hunt season, except for youth-only seasons.

(3) \* \* \*

(ii) We allow hunting of black bear only when the State season dates overlap with a general or archery State deer or javelina hunt season, except for youth-only seasons.

\* \* \* \* \*

■ 5. Amend § 32.23 by revising paragraphs (a) through (f), and (i) to read as follows:

§ 32.23 Arkansas.

\* \* \* \* \*

(a) *Bald Knob National Wildlife Refuge—(1) Migratory game bird hunting.* We allow hunting of duck, goose, coot, merganser, snipe, woodcock, rail, gallinule, crow, and dove on designated areas of the refuge subject to the following conditions:

(i) We require a signed refuge hunting permit (FWS Form 3-2439). Anyone on the refuge in possession of hunting equipment must sign and possess the permit (FWS Form 3-2439) at all times.

(ii) During the quota gun deer hunt, we close the refuge to all other hunts and public entry, unless the refuge is closed to deer hunting at that time due to implementation of State flood closure zone regulations.

(iii) Hunters may enter the refuge beginning at 4 a.m. Except when hunting applicable goose species during the State Conservation Order, waterfowl hunters must exit the refuge by 1 p.m. All other hunters, including those hunting applicable goose species during the State Conservation Order, must exit the refuge no later than 1 hour after legal sunset.

(iv) We allow waterfowl hunting until 12 p.m. (noon), except that during the State Conservation Order, you may hunt for applicable goose species until legal sunset. Snipe, woodcock, rail, gallinule, crow, and dove hunters may hunt until legal sunset.

(v) When waterfowl hunting, you may not possess more than 25 shotgun shells while in the field, except that during the State Conservation Order, there is no limit on the number of shells you may possess while hunting applicable goose species.

(vi) We prohibit hunting closer than 100 yards (91 meters) to another hunter or hunting party.

(vii) You must remove decoys, blinds, boats, and all other equipment at the end of each day's hunt (see § 27.93 of this chapter).

(viii) All hunters age 11 and younger who possess valid hunter education certification must remain within normal sight and voice contact with an adult age 18 or older who possesses a valid State hunting license. Hunters age 15 and younger who have not completed hunter education must be under the direct supervision (within arm's reach) of an adult age 21 or older who possesses a valid State hunting license. One adult may supervise up to two youth hunters for migratory bird and upland game hunting, but may supervise only one youth during big game hunting.

(ix) We allow incidental take of beaver, muskrat, nutria, river otter, mink, bobcat, fox, striped skunk, and coyote during any refuge hunt with the weapons legal for that hunt, subject to applicable State seasons and regulations.

(x) We allow the use of dogs when migratory game bird hunting.

(xi) We close the Waterfowl Sanctuary Hunt Unit to all entry and hunting from November 15 to February 28, except that quota gun deer hunters may hunt in that Unit when the season overlaps with these dates.

(xii) We allow waterfowl hunting from mowed and/or graveled road rights-of-way, but we prohibit all other hunting from these rights-of-way.

(xiii) We allow only hunters to use all-terrain vehicles (ATVs) and only from September 1 through March 31, except that during the State Conservation Order, hunters may use ATVs for hunting applicable goose species.

(xiv) Hunters may use conventional motor vehicles, ATVs, bicycles, and e-bikes only on public use roads, levee tops, designated ATV trails (open to ATVs only), and established parking lots not closed by a locked gate, other barrier, or signage.

(xv) Hunters and anglers may use conventional motor vehicles only in the Bison, Waterfowl Sanctuary, and Core Waterfowl Area Hunt Units and only from March 1 through November 14.

(xvi) From November 15 through February 28, we close the Core Waterfowl Area Hunt Unit to all hunting, fishing, and public entry at 1 p.m. daily, except that during the State Conservation Order, you may hunt applicable goose species in this Unit until legal sunset.

(xvii) We prohibit the use of personal watercraft (e.g., jet skis), airboats, and hovercraft for hunting and fishing on the refuge.

(2) *Upland game hunting.* We allow hunting of squirrel, rabbit, quail, raccoon, opossum, beaver, muskrat, nutria, river otter, mink, bobcat, fox, striped skunk, and coyote on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (a)(1)(i), (ii), (viii), (ix), and (xi) through (xvii) of this section apply.

(ii) Hunters may use shotguns, rifles and handguns chambered for rimfire cartridges, air rifles, and archery tackle.

(iii) We allow squirrel, rabbit, opossum, raccoon, and quail hunting according to season dates and bag limits provided in the annual refuge public use brochure.

(iv) We allow the use of dogs when hunting upland game.

(v) Hunters may enter the refuge beginning at 4 a.m. and must exit the refuge by 1 hour after legal sunset, except that we allow hunting of raccoon and opossum at night (from 30 minutes after legal sunset to 30 minutes before legal sunrise) on the refuge.

(vi) We prohibit hunting from a vehicle.

(3) *Big game hunting.* We allow hunting of deer and turkey, and the incidental take of feral hog, on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (a)(1)(i), (ii), (viii), (ix), and (xi) through (xvii), (2)(v), and (2)(vi) of this section apply.

(ii) We allow archery/crossbow, modern gun, and muzzleloader deer hunting according to season dates and bag limits provided in the annual refuge public use brochure.

(iii) Turkey hunting will be conducted in the Bison, Waterfowl Sanctuary, and Mingo Creek Hunt Units according to season dates and bag limits provided in the annual refuge public use brochure.

(iv) Hunters may use only shotguns with slugs, muzzleloaders, handguns with barrel lengths greater than 4 inches, large-bore air rifles, and archery/crossbow tackle for modern gun deer hunting on the Bison, Core Waterfowl Area, and Waterfowl Sanctuary Hunt Units.

(v) You may erect portable stands and blinds 7 days prior to the refuge deer season and must remove them from the waterfowl sanctuary prior to November 15, except for stands used by quota gun deer hunters, which you must remove by the last day of the quota gun deer hunt (see § 27.93 of this chapter). You must remove all stands on the remainder of the refuge within 7 days of the closure of archery season (see § 27.93 of this chapter).

(vi) We prohibit leaving any tree stand, blind, or game camera on the refuge without the owner's Arkansas Game and Fish Commission customer identification number clearly written on it in a conspicuous location.

(vii) We prohibit the possession or use of lead shot and buckshot for deer hunting. We allow lead shot for turkey hunting.

(viii) During the quota gun deer hunt, we allow only hunters possessing a valid quota gun deer hunting permit (FWS Form 3-2439) on the refuge and only for the purposes of deer hunting and the incidental take of allowable species.

(ix) Hunters may only take feral hog incidental to modern gun and muzzleloader deer hunts and during specified periods for archery deer hunting according to season dates provided in the annual refuge public use brochure.

(x) We prohibit the use of dogs for deer hunting.

(xi) During the quota turkey hunts, only hunters possessing a valid quota turkey hunting permit (FWS Form 3-2439) will be allowed to enter the open hunt units and only for the purposes of turkey hunting.

(4) *Sport fishing.* We allow sport fishing, frogging, and crawfishing on



designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraph (a)(1)(ii), (xi), (xv) through (xvii), and (a)(3)(viii) and (xi) of this section apply.

(ii) We prohibit the take or possession of turtles and/or mollusks (see § 27.21 of this chapter).

(iii) We allow fishing, frogging, and crawfishing for personal use only. All crawfish traps must have the owner's Arkansas Game and Fish Commission license customer identification number permanently affixed.

(iv) You may enter the refuge to fish, frog, or crawfish beginning at 4 a.m. and must exit by 1 hour after legal sunset.

(v) We prohibit tournament fishing on the refuge.

(b) *Big Lake National Wildlife Refuge.*  
(1) [Reserved]

(2) *Upland game hunting.* We allow hunting of squirrel, rabbit, quail, raccoon, nutria, coyote, beaver, muskrat, river otter, mink, bobcat, fox, striped skunk, and opossum on designated areas of the refuge subject to the following conditions:

(i) We require a signed refuge hunt permit (FWS Form 3-2439). Anyone on the refuge in possession of hunting equipment must sign and possess the permit (FWS Form 3-2439) at all times.

(ii) During the quota gun deer hunt, we close the refuge to all other hunts and public entry.

(iii) We allow incidental take of nutria, beaver, muskrat, river otter, mink, bobcat, fox, striped skunk, and coyote during any refuge hunt with the weapons legal for that hunt, subject to applicable State seasons and regulations.

(iv) We allow squirrel, rabbit, raccoon, opossum, and quail hunting according to season dates and bag limits provided in the annual refuge public use brochure.

(v) We allow the use of dogs only for squirrel, rabbit, and quail hunting in the refuge area north of Timm's Point.

(vi) Hunters may only use shotguns, rifles and handguns chambered for rimfire cartridges, air rifles, and archery tackle.

(vii) We prohibit hunting from mowed and/or gravel road rights-of-way.

(viii) Hunters may enter the refuge beginning at 4 a.m. and must exit the refuge by 1 hour after legal sunset, except that we allow hunting of raccoon and opossum at night (from 30 minutes after legal sunset to 30 minutes before legal sunrise) on the refuge.

(ix) All hunters age 11 and younger who possess valid hunter education certification must remain within normal sight and voice contact with an adult

age 18 or older who possesses a valid State hunting license. Hunters age 15 and younger who have not completed hunter education must be under the direct supervision (within arm's reach) of an adult age 21 or older who possesses a valid State hunting license. One adult may supervise up to two youth hunters for upland game hunting, but may supervise only one youth during big game hunting.

(x) From November 1 to February 28, we close all waterfowl sanctuaries to all hunting and public entry.

(xi) Hunters and anglers may not leave motor vehicles, bicycles, e-bikes, or boats overnight on the refuge.

(xii) We only allow use of all-terrain vehicles (ATVs) by hunters with mobility-impairments, and the refuge manager must authorize this use in writing.

(xiii) Hunters and anglers may use motor vehicles, bicycles, and e-bikes only on public use roads not closed by a locked gate, other barrier, or signage.

(xiv) From November 1 through February 28, boat access is restricted to launching at Seven Mile boat ramp and using Ditch 28 only.

(xv) We prohibit the use of personal watercraft (e.g., jet skis), airboats, and hovercraft for hunting and fishing on the refuge.

(xvi) We prohibit hunting from a vehicle.

(3) *Big game hunting.* We allow hunting of white-tailed deer, turkey, and incidental take of feral hog on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (b)(2)(i) through (iii), and (vii) through (xvi) of this section apply.

(ii) We allow archery/crossbow, modern gun, and muzzleloader deer hunting according to season dates and bag limits provided in the annual refuge public use brochure.

(iii) Modern gun deer hunters may only use shotguns with slugs, muzzleloaders, handguns with barrel lengths greater than 4 inches, large-bore air rifles, and archery/crossbow tackle.

(iv) You may erect portable stands or blinds 7 days prior to the refuge deer season and must remove them 7 days after the closure of archery season (see § 27.93 of this chapter).

(v) We prohibit leaving any tree stand, blind, or game camera on the refuge without the owner's Arkansas Game and Fish Commission customer identification number clearly written on it in a conspicuous location.

(vi) Hunters may only take feral hog incidental to modern gun and muzzleloader deer hunts and during a specified period during archery deer

hunting according to season dates provided in the annual refuge public use brochure.

(vii) We prohibit the possession or use of lead shot or buckshot for deer hunting. We allow lead shot for turkey hunting.

(viii) Turkey hunting is conducted according to season dates and bag limits provided in the annual refuge public use brochure.

(ix) During the quota gun deer hunts, only hunters possessing a valid quota gun deer permit (FWS Form 3-2439) may use the refuge and only for the purposes of deer hunting and the incidental take of allowable species.

(x) During the quota gun turkey hunts, we close the refuge Wildlife Auto Drive Road to other hunting and public entry, and only hunters possessing a valid quota gun turkey permit (FWS Form 3-2439) may use that area of the refuge and only for the purposes of turkey hunting.

(xi) We prohibit the use of dogs for deer hunting.

(4) *Sport fishing.* We allow sport fishing, frogging, and crawfishing on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (b)(2)(ii), (x), (xi), (xii) through (xv), and (b)(3)(ix) and (x) of this section apply.

(ii) Anglers may launch boats only in designated areas.

(iii) We allow frogging and crawfishing for personal use only. All crawfish traps must have the owner's Arkansas Game and Fish Commission license customer identification number permanently affixed.

(iv) We prohibit the take or possession of turtles and/or mollusks (see § 27.21 of this chapter).

(v) We allow fishing, frogging, and crawfishing on all refuge waters from March 1 through October 31.

(vi) We allow fishing in the Sand Slough-Mud Slough area from November 1 through February 28 only with the use of nonmotorized boats and electric trolling motors; anglers may enter this area at 4 a.m. and must depart by 1 hour after legal sunset.

(vii) We prohibit climbing onto or fishing from any water control structure and associated wingwalls and fences, or the top of the Floodway Dam south of Highway 18.

(viii) We prohibit tournament fishing on the refuge.

(c) *Cache River National Wildlife Refuge—(1) Migratory game bird hunting.* We allow hunting of duck, goose, coot, merganser, snipe, woodcock, rail, gallinule, crow, and



dove on designated areas of the refuge subject to the following conditions:

(i) We require a signed refuge hunting permit (FWS Form 3–2439). Anyone on the refuge in possession of hunting equipment must sign and possess the permit (FWS Form 3–2439) at all times.

(ii) Hunters may enter the refuge beginning at 4 a.m. Except when hunting applicable goose species during the State Conservation Order, waterfowl hunters must exit the refuge by 1 p.m. All other hunters, including those hunting applicable goose species during the State Conservation Order, must exit the refuge no later than 1 hour after legal sunset.

(iii) We allow waterfowl hunting until 12 p.m. (noon), except that during the State Conservation Order, you may hunt for applicable goose species until legal sunset.

(iv) You must remove decoys, blinds, boats, and all other equipment at the end of each day's hunt (see § 27.93 of this chapter).

(v) From March 1 through October 31, hunters and anglers may leave boats displaying valid registration on the refuge.

(vi) During the regular State waterfowl hunting season, we prohibit the use of boats on the refuge from 12 a.m. (midnight) to 4 a.m.

(vii) We allow the use of dogs when migratory game bird hunting.

(viii) We allow waterfowl hunting on flooded refuge roads.

(ix) During the quota gun deer hunt, we close the refuge to all other hunts and public entry, unless the refuge is closed to deer hunting at that time due to implementation of State flood closure zone regulations.

(x) All hunters age 11 and younger who possess valid hunter education certification must remain within normal sight and voice contact with an adult age 18 or older who possesses a valid State hunting license. Hunters age 15 and younger who have not completed hunter education must be under the direct supervision (within arm's reach) of an adult age 21 or older who possesses a valid State hunting license. One adult may supervise up to two youth hunters for migratory bird and upland game hunting, but may supervise only one youth during big game hunting.

(xi) We allow incidental take of beaver, muskrat, nutria, river otter, mink, bobcat, fox, striped skunk, and coyote during any refuge hunt with the weapons legal for that hunt, subject to applicable State season and regulations.

(xii) From November 15 to February 28, we close all waterfowl sanctuaries to all hunting and public entry.

(xiii) We allow only hunters to use all-terrain vehicles (ATVs) and only from September 1 through March 31, except that during the State Conservation Order, hunters may use ATVs for hunting applicable goose species.

(xiv) Hunters and anglers may not operate conventional motor vehicles, ATVs, bicycles, or e-bikes on any road or trail closed by a locked gate, other barrier, or signage.

(xv) Hunter and anglers may not leave motor vehicles, ATVs, bicycles, or e-bikes unattended overnight on the refuge.

(xvi) We prohibit the use of personal watercraft (*e.g.*, jet skis), airboats, and hovercraft for hunting and fishing on the refuge.

(2) *Upland game hunting.* We allow hunting of squirrel, rabbit, quail, raccoon, opossum, beaver, muskrat, nutria, river otter, mink, bobcat, fox, striped skunk, and coyote on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (c)(1)(i), (v), (vi), and (ix) through (xvi) of this section apply.

(ii) We allow squirrel, rabbit, raccoon, opossum, and quail hunting according to season dates and bag limits provided in the annual refuge public use brochure.

(iii) We allow the use of dogs when hunting upland game.

(iv) We prohibit hunting from mowed and/or graveled road rights-of-way.

(v) Hunters may use only shotguns, rifles and handguns chambered for rimfire cartridges, air rifles, and archery tackle.

(vi) Hunters may enter the refuge beginning at 4 a.m. and must exit the refuge by 1 hour after legal sunset, except that we allow hunting of raccoon and opossum at night (from 30 minutes after legal sunset to 30 minutes before legal sunrise) on the refuge.

(vii) We prohibit hunting from a vehicle.

(3) *Big game hunting.* We allow hunting of deer and turkey, and incidental take of feral hog, on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (c)(1)(i), (v), (vi), and (ix) through (xvi), and (c)(2)(iv), (vi) and (vii) of this section apply.

(ii) We allow archery/crossbow, modern gun, and muzzleloader deer hunting according to season dates and bag limits provided in the annual refuge public use brochure.

(iii) Hunters may take only feral hog incidental to modern gun and muzzleloader deer hunts and during a

specified period during archery deer hunting according to season dates provided in the annual refuge public use brochure.

(iv) Hunters may only use shotguns with slugs, muzzleloaders, handguns with barrel lengths greater than 4 inches, large-bore air rifles, and archery/crossbow tackle for modern gun deer hunting on the Dixie, Dixie Waterfowl Sanctuary, and Plunkett Farm Waterfowl Sanctuary Hunt Units.

(v) You may erect portable stands or blinds 7 days prior to the refuge deer season, and you must remove them from the waterfowl sanctuaries prior to November 15, and from the rest of the refuge within 7 days of the closure of archery season (see § 27.93 of this chapter).

(vi) We prohibit leaving any tree stand, blind, or game camera on the refuge without the owner's Arkansas Game and Fish Commission customer identification number clearly written on it in a conspicuous location.

(vii) We prohibit the possession or use of lead shot and buckshot for deer hunting. We allow lead shot for turkey hunting.

(viii) During the quota gun deer hunt, we allow only hunters possessing a valid quota gun deer hunting permit (FWS Form 3–2439) on the refuge and only for the purposes of deer hunting and the incidental take of allowable species.

(ix) Turkey hunting will be conducted in designated areas according to season dates and bag limits provided in the annual refuge public use brochure.

(x) We prohibit the use of dogs for deer hunting.

(4) *Sport fishing.* We allow sport fishing, frogging, and crawfishing on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (c)(1)(v), (vi), (ix), (xii), (xiv) through (xvi), and (c)(3)(viii) of this section apply.

(ii) We prohibit the take or possession of turtles and/or mollusks (see § 27.21 of this chapter).

(iii) We allow frogging and crawfishing for personal use only. All crawfish traps must have the owner's Arkansas Game and Fish Commission license customer identification number permanently affixed.

(iv) We prohibit tournament fishing on the refuge.

(d) *Dale Bumpers White River National Wildlife Refuge—(1) Migratory game bird hunting.* We allow hunting of waterfowl (duck, goose, merganser, and coot), dove, and woodcock on designated areas of the refuge subject to the following conditions:

(i) We require an annual public use permit (FWS Form 3–2439) to hunt, fish, launch boats, and utilize campgrounds.

(ii) We allow waterfowl hunting from legal shooting hours until 12 p.m. (noon).

(iii) We allow the use of dogs when migratory game bird hunting.

(iv) We allow woodcock hunting beginning December 1 until the end of the State woodcock season on the North Unit following State legal shooting hours and bag limit.

(v) We prohibit goose hunting outside the State duck season.

(vi) We allow dove hunting only during the Statewide season in September and October, as specified in the refuge public use brochure.

(vii) You must remove blinds, blind material, and decoys from the refuge by 1 p.m. each day (see § 27.93 of this chapter).

(viii) Waterfowl hunters may enter the North Unit, Jack's Bay Hunt Area, and Levee Hunt Area no earlier than 4 a.m. on days hunting is allowed, as identified in the refuge public use brochure.

(ix) We prohibit boating from November 1 to March 1 in the South Unit Waterfowl Hunt Areas, except from 4 a.m. to 1 p.m. on designated waterfowl hunt days.

(x) We allow waterfowl hunting on outlying tracts; the conditions set forth at paragraphs (d)(1)(ii), (vii), and (viii) of this section apply.

(xi) We only allow all-terrain vehicles (ATVs) for wildlife-dependent hunting and fishing activities. We prohibit the use of ATVs after December 15 each year in designated South Unit areas as shown in the refuge public use brochure.

(xii) We allow incidental take of beaver, coyote, and nutria during any refuge hunt with the weapons legal for that hunt, subject to applicable State seasons and regulations.

(xiii) During refuge-wide quota muzzleloader and quota gun deer hunts, we close the refuge to all non-quota hunting.

(xiv) All youth hunters age 15 and younger must remain within sight and normal voice contact of an adult age 21 or older who possesses a valid State hunting license. One adult may supervise no more than two youth hunters.

(2) *Upland game hunting.* We allow hunting of squirrel, rabbit, and all furbearers (as governed by State law), and the incidental take of beaver, coyote, and nutria, on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (d)(1)(i), and (xi) through (xiv) of this section apply.

(ii) We allow hunting of rabbit and squirrel on the North Unit from September 1 through January 31.

(iii) On the North Unit only, we allow the use of dogs when hunting rabbit and squirrel from December 1 through January 31.

(iv) We allow rabbit and squirrel hunting on the South Unit from September 1 through November 30.

(v) We allow furbearer hunting. The annual public use brochure provides season dates and methods.

(vi) We allow the use of dogs for hunting furbearers from legal sunset to legal sunrise. Hunters must tether or pen all dogs used for furbearer hunting from legal sunrise to legal sunset and at any time they are not involved in actual hunting.

(3) *Big game hunting.* We allow the hunting of white-tailed deer and turkey, and the incidental take of feral hog, on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (d)(1)(i), (ix), and (xi) through (xiii) of this section apply.

(ii) Archery deer seasons on the North Unit are from October 1 through January 31, except during quota muzzleloader and quota gun deer hunts, when the archery season is closed.

(iii) Archery deer seasons on the South Unit are from October 1 through December 31, except during quota muzzleloader and quota gun deer hunts, when the archery season is closed.

(iv) Muzzleloader season for deer will begin in October and will continue for a period of up to 3 days of quota hunting in the North and South Units, and no more than 4 days of non-quota hunting in the North Unit.

(v) The gun deer hunt will begin in November and will continue for a period of no more than 3 days of quota hunting in the North and South Units, and no more than 2 days of non-quota hunting in the North Unit.

(vi) We restrict hunt participants for quota hunts to those drawn for a quota permit (FWS Form 3–2439). The permits are nontransferable and nonrefundable.

(vii) Hunters may only take feral hog incidental to deer season dates identified in the refuge public use brochure.

(viii) We prohibit organized deer drives. We define a “deer drive” as an organized or planned effort to pursue, drive, chase, or otherwise frighten or cause deer to move in the direction of any person(s) who is part of the organized or planned hunt and known to be waiting for the deer.

(ix) We prohibit firearm deer hunting from or across roads, ATV trails, levees, and maintained utility rights-of-way.

(x) You may only use portable deer stands and ground blinds. You may erect stands or blinds up to 7 days before each hunt, but you must remove them within 7 days after each hunt (see § 27.93 of this chapter). All unattended deer stands and blinds on the refuge must have the owner's State hunting license number clearly displayed.

(xi) We close the Kansas Lake Area to all entry on December 1 and reopen it on March 1.

(xii) We prohibit the possession of buckshot on the refuge.

(xiii) An adult age 21 or older possessing a valid hunting license must accompany and be within sight and normal voice contact of hunters age 15 and younger. One adult may supervise no more than one youth hunter.

(xiv) The annual refuge public use brochure provides season dates and methods for turkey hunting.

(4) *Sport fishing.* We allow sport fishing, frogging, and crawfishing on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (d)(1)(i) and (ix) of this section apply.

(ii) We allow sport fishing in refuge-owned waters as follows:

(A) We allow fishing year-round in:  
(1) Big Island Chute, LaGrue, Essex, Prairie, Scrubgrass, and Brooks Bayous;  
(2) Moon and Belknap Lakes next to Arkansas Highway 1;

(3) Indian Bay;

(4) Arkansas Post Canal and adjacent drainage ditches;

(5) Borrow ditches located adjacent to the west bank of that portion of the White River Levee north of the Graham Burke pumping station; and

(6) All waters in the refuge-owned North Unit and scattered tracts.

(B) We open all other South Unit refuge waters to sport fishing from March 1 through November 30, unless posted otherwise.

(iii) We allow frogging on all refuge-owned waters open for sport fishing as follows:

(A) We allow frogging on the South Unit from the beginning of the State season through November 30.

(B) We allow frogging on the North Unit for the entire State season.

(iv) We prohibit all commercial and recreational harvest of turtle on all property administered by Dale Bumpers White River National Wildlife Refuge (see § 27.21 of this chapter).

(v) We prohibit take or possession of any freshwater mussel (see § 27.21 of this chapter), and we prohibit the shelling of mussels on the refuge.

(vi) Boats (16 feet or less) displaying valid registration or Arkansas Game and Fish Commission's license customer identification number may be left on the refuge from March 1 through October 31.

(e) *Felsenthal National Wildlife Refuge*—(1) *Migratory game bird hunting*. We allow hunting of American woodcock, duck, light and dark goose, merganser, and coot on designated areas of the refuge subject to the following conditions:

(i) Hunters and anglers must possess and carry a signed refuge public use brochure while hunting or fishing.

(ii) Waterfowl hunters may enter the refuge beginning at 4 a.m. We allow waterfowl hunting until 12 p.m. (noon).

(iii) Hunters must remove decoys, blinds, boats, and all other equipment by 1 p.m. each day (see § 27.93 of this chapter).

(iv) We close areas of the refuge posted with "Area Closed" signs and identify them on the refuge public use brochure map as a waterfowl sanctuary. We close waterfowl sanctuaries to all public entry and public use from November 15 to February 15.

(v) We allow hunting of duck, light and dark goose, merganser, and coot during the State waterfowl season except during scheduled refuge quota gun deer hunts.

(vi) We allow American woodcock hunting during the State season except during scheduled refuge quota hunts. Woodcock hunters may enter the refuge beginning at 4 a.m. and must exit by 1 hour after legal sunset.

(vii) All youth hunters age 15 and younger must remain within sight and normal voice contact of an adult age 21 or older who possesses a valid State hunting license. One adult may supervise no more than two youth hunters.

(viii) We allow only all-terrain vehicles/utility-type vehicles (ATVs/UTVs) for hunting and fishing activities according to regulations provided in the refuge public use brochure.

(ix) You may use bikes, horses, and mules on roads and ATV/UTV trails (when open to motor vehicle and ATV/UTV traffic, respectively) as a mode of transportation for hunting and fishing activities on the refuge except during the quota deer hunts.

(x) We prohibit hunting within 150 feet (45 meters) of roads, pipelines, and trails open to motor vehicle use (including ATV/UTV trails).

(xi) We allow the incidental take of beaver, nutria, and coyote during any daytime refuge hunt with weapons and ammunition allowed for that hunt. There is no bag limit.

(xii) We allow the use of dogs when hunting.

(2) *Upland game hunting*. We allow hunting of quail, squirrel, rabbit, raccoon, and opossum (as governed by State law), and incidental take of beaver, nutria, and coyote, on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (e)(1)(i), (iv), and (vii) through (xi) of this section apply.

(ii) We allow hunting for quail, squirrel, rabbit, raccoon, and opossum on the refuge during State seasons through January 31. We close upland game hunting during refuge quota gun deer hunts.

(iii) We do not open for the spring squirrel hunting season, or for the summer/early fall raccoon hunting season.

(iv) We allow the use of dogs for squirrel and rabbit hunting from December 1 through January 31, and for quail and raccoon/opossum hunting during the open season on the refuge for these species.

(3) *Big game hunting*. We allow hunting of white-tailed deer and turkey, and incidental take of feral hog, on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (e)(1)(i), (iv), and (viii) through (xi) of this section apply.

(ii) We allow archery deer hunting on the refuge from the opening of the State season through January 31, except during refuge deer quota hunts.

(iii) We allow muzzleloader and modern gun deer hunting during designated times and seasons, within specified State seasons as listed in the refuge public use brochure.

(iv) Total deer harvested refuge-wide is two deer (two does, or one buck and one doe, as governed by State law) regardless of method. A doe must be harvested before a buck.

(v) We prohibit buckshot for modern gun deer hunting.

(vi) You may only use portable deer stands erected no earlier than the opening day of archery season, and you must remove them no later than January 31 each year (see § 27.93 of this chapter).

(vii) We prohibit the use of deer decoy(s).

(viii) Turkey hunting (Archery, Youth, and Quota) will be conducted during designated times and seasons, within specified State seasons as listed in the refuge public use brochure.

(ix) We restrict quota hunt participants to those selected for a quota permit (FWS Form 3–2439), except that one nonhunting adult age 21 or older

possessing a valid hunting license must accompany the youth hunter age 15 and younger.

(x) An adult age 21 or older possessing a valid hunting license must accompany and be within sight and normal voice contact of hunters age 15 and younger. One adult may supervise no more than one youth hunter.

(xi) We allow the use of one tree stand or ground blind, and one game camera, on the refuge if the owner's State hunting license number is clearly written on them in a conspicuous location.

(xii) We restrict hunt participants for quota hunts to those drawn for a quota permit (FWS Form 3–2439). These permits are nontransferable, and the permit fees are nonrefundable.

(xiii) The incidental taking of feral hogs will be governed by Arkansas Game and Fish Commission regulations concerning the taking of feral hogs on State Wildlife Management Areas (WMAs). Subject to State regulations, we allow incidental take of feral hogs during daytime refuge deer quota hunts (without the use of dogs) and during a specified period during archery deer hunting with legal hunting equipment and ammunition allowed for those hunts according to the season dates provided in the refuge public use brochure. There is no bag limit.

(4) *Sport fishing*. We allow sport fishing, frogging, and crawfishing on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (e)(1)(i), (iii), (iv), (viii), and (ix) of this section apply.

(ii) We prohibit fishing in the waterfowl sanctuary area when the sanctuary is closed, with the exception of the main channel of the Ouachita and Saline Rivers and the borrow pits along Highway 82. We post the waterfowl sanctuary area with "Area Closed" signs and identify those areas in refuge hunt brochures.

(iii) During the refuge quota gun deer hunts, we allow fishing only in areas accessible from the Ouachita and Saline Rivers and from Eagle, Jones, and Pereogeethe Lakes.

(iv) You must move or remove trotlines when receding water levels expose them.

(v) We allow frogging and crawfishing for personal use only during designated times and seasons, within specified State seasons as listed in the refuge public use brochure.

(vi) We prohibit the take or possession of turtles and/or mollusks (see § 27.21 of this chapter).

(f) *Holla Bend National Wildlife Refuge*. (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of squirrel, rabbit, quail, raccoon, opossum, beaver, muskrat, nutria, river otter, mink, fox, striped skunk, coyote, and bobcat on designated areas of the refuge subject to the following conditions:

(i) We require a signed refuge hunting permit (FWS Form 3–2439). Anyone on the refuge in possession of hunting equipment must sign and possess the permit (FWS Form 3–2439) at all times.

(ii) We allow squirrel, rabbit, raccoon, opossum, and quail hunting according to season dates and bag limits provided in the annual refuge public use brochure.

(iii) We only allow use of all-terrain vehicles (ATVs) by hunters and anglers with mobility impairments, and the refuge manager must authorize this use in writing.

(iv) Hunters and anglers may use boats in designated areas and at times provided in the annual refuge public use brochure.

(v) All hunters age 11 and younger who possess valid hunter education certification must remain within normal sight and voice contact with an adult age 18 or older who possesses a valid State hunting license. Hunters age 15 and younger who have not completed hunter education must be under the direct supervision (within arm's reach) of an adult age 21 or older who possesses a valid State hunting license. One adult may supervise up to two youth hunters for upland game hunting, but may supervise only one youth during big game hunting.

(vi) During the quota youth gun deer and turkey hunts, we close the refuge to all other hunting and public entry.

(vii) We allow incidental take of beaver, muskrat, nutria, river otter, mink, bobcat, fox, striped skunk, and coyote during any refuge hunt with the weapons legal for that hunt, subject to applicable State seasons and regulations.

(viii) Hunters and anglers may use bicycles and e-bikes only on public use roads and designated trails not closed by a locked gate, other barrier, or signage.

(ix) During the mentored youth squirrel and rabbit hunts, the mentoring adult may supervise up to two hunting youths. Youth hunters may only use shotguns, rifles and handguns chambered for rimfire cartridges, air rifles, and archery tackle. We prohibit adults from hunting during mentored hunts.

(x) Hunters must enter and exit the refuge from designated roads and parking lots only.

(xi) We limit raccoon and opossum hunting to nighttime hunting only.

(xii) Hunter and anglers may not leave motor vehicles, bicycles, e-bikes, or boats unattended overnight on the refuge.

(xiii) We prohibit hunting from a vehicle.

(xiv) We prohibit the use of personal watercraft (e.g., jet skis), airboats, and hovercraft for hunting and fishing on the refuge.

(3) *Big game hunting.* We allow hunting of deer, black bear, and turkey on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (f)(2)(i), (iii) through (viii), (x), and (xii) through (xiv) of this section apply.

(ii) We allow archery/crossbow hunting for white-tailed deer and turkey according to season dates and bag limits provided in the annual refuge public use brochure.

(iii) Youth modern gun deer hunts will be conducted according to season dates and bag limits provided in the refuge public use brochure.

(iv) We allow the take of black bear incidental to refuge archery and modern gun deer hunts subject to applicable State seasons and regulations.

(v) The refuge will conduct youth-only quota spring gun turkey hunts according to season dates and bag limits provided in the refuge public use brochure.

(vi) You may erect portable stands or blinds 7 days before the start of the season, and you must remove them from the refuge within 7 days after the season ends (see § 27.93 of this chapter).

(vii) We prohibit leaving any tree stand, blind, or game camera on the refuge without the owner's Arkansas Game and Fish Commission customer identification number clearly written on it in a conspicuous location.

(viii) We prohibit organized drives. We define a "drive" as an organized or planned effort to pursue, drive, chase, or otherwise frighten or cause game to move in the direction of any person(s) who is part of the organized or planned hunt and known to be waiting for the game.

(ix) You must check all harvested turkey, bear, and deer at the refuge check station.

(x) We prohibit the use of dogs for deer hunting.

(xi) Big game hunters may enter the refuge 1 hour before legal sunrise and must exit by 1 hour after legal sunset.

(4) *Sport fishing.* We allow sport fishing, frogging, and crawfishing on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (f)(2)(iii), (iv), (vi), (viii), (xii), and (xiv) of this section apply.

(ii) We allow fishing, frogging, and crawfishing on all waters only from March 1 through October 31 from legal sunrise to legal sunset.

(iii) Anglers must remove boats from the refuge at the end of each day's fishing activity (see § 27.93 of this chapter).

(iv) We prohibit the take or possession of turtles and/or mollusks (see § 27.21 of this chapter).

(v) We allow frogging and crawfishing for personal use only. All crawfish traps must have the owner's Arkansas Game and Fish Commission license customer identification number permanently affixed.

(vi) We prohibit access to refuge waters and land from the Arkansas River.

(vii) We limit trotlines, setline, limblines, yo-yo and free-floating fishing devices to 20 per person; any line that extends into the water must be cotton.

(viii) Trotlines, setlines, limblines, yo-yos, and free-floating fishing devices must be clearly labelled with the angler's Arkansas Game and Fish Commission license customer identification number, and cannot be left overnight or unattended.

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(i) *Wapanocca National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of squirrel, rabbit, raccoon, nutria, beaver, coyote, quail, muskrat, river otter, mink, bobcat, fox, striped skunk, and opossum on designated areas of the refuge subject to the following conditions:

(i) We require a signed refuge hunting permit (FWS Form 3–2439). Anyone on the refuge in possession of hunting equipment must sign and possess the permit (FWS Form 3–2439) at all times.

(ii) Hunters may enter the refuge at 4 a.m. and must leave the refuge no later than 1 hour after legal sunset, except that we allow hunting of raccoon and opossum at night on the refuge.

(iii) During the quota gun hunts, we close the refuge to all other hunts and public entry.

(iv) We allow squirrel, rabbit, raccoon, opossum, and quail hunting according to season dates and bag limits provided in the annual refuge public use brochure.

(v) We allow the incidental take of nutria, beaver, muskrat, river otter, mink, bobcat, fox, striped skunk, and coyote during any refuge hunt with the weapons allowed for that hunt, subject

to applicable State seasons and regulations.

(vi) Hunters may use only shotguns, rifles and handguns chambered for rimfire cartridges, air rifles, and archery tackle.

(vii) We prohibit hunting from mowed and/or gravel road rights-of-way.

(viii) All hunters age 11 and younger who possess valid hunter education certification must remain within normal sight and voice contact with an adult age 18 or older who possesses a valid State hunting license. Hunters age 15 and younger who have not completed hunter education must be under the direct supervision (within arm's reach) of an adult age 21 or older who possesses a valid State hunting license. One adult may supervise up to two youth hunters for upland game hunting, but may supervise only one youth during big game hunting.

(ix) From December 1 to February 28, we close all waterfowl sanctuaries (including Wapanocca Lake) to all hunting and public entry.

(x) We prohibit the use of all-terrain vehicles (ATVs), except that ATVs may be used by mobility-impaired hunters possessing written authorization issued by the refuge manager.

(xi) Hunters and anglers may use motor vehicles, bicycles, and e-bikes only on public use roads not closed by a locked gate, other barrier, or signage.

(xii) Hunters and anglers must use the public boat ramp on Highway 77 to launch motorized boats into Wapanocca Lake.

(xiii) Hunters and anglers must operate boats at speeds of less than 5 miles per hour between the Highway 77 boat launch and the open lake.

(xiv) We prohibit the use of personal watercraft (e.g., jet skis), airboats, and hovercraft for hunting and fishing on the refuge.

(xv) Hunter and anglers may not leave motor vehicles, bicycles, e-bikes, or boats unattended overnight on the refuge.

(xvi) We prohibit hunting from a vehicle.

(xvii) The Round Pond and Pygmon Units in St. Francis County are subject to all regulations for hunting and fishing for Wapanocca NWR.

(3) *Big game hunting.* We allow hunting of white-tailed deer and turkey, and incidental take of feral hog, on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (i)(2)(i) through (iii), (v), and (vii) through (xvii) of this section apply.

(ii) During the quota gun deer hunts, we allow only hunters possessing a valid quota gun deer hunting permit

(FWS Form 3–2439) on the refuge and only for the purposes of deer hunting and the incidental take of allowable species.

(iii) You may erect portable stands or blinds 7 days prior to the refuge deer season, and you must remove them from the waterfowl sanctuaries by December 1 (see § 27.93 of this chapter). You must remove all stands and blinds on the remainder of the refuge within 7 days of the closure of archery season (see § 27.93 of this chapter).

(iv) We allow portable tree stands, blinds, and game cameras on the refuge only if the owner's Arkansas Game and Fish Commission customer identification number is clearly written on them in a conspicuous location.

(v) We allow archery/crossbow, muzzleloader, and modern gun deer hunting according to season dates and bag limits provided in the annual refuge public use brochure.

(vi) Hunters may only use shotguns with slugs, muzzleloaders, handguns with barrel lengths longer than 4 inches, large-bore air rifles, and archery/crossbow tackle for modern gun deer hunting.

(vii) Hunters may only take feral hog incidental to modern gun and muzzleloader deer hunts and during a specified period during archery deer hunting according to season dates provided in the annual refuge public use brochure.

(viii) The annual refuge public use brochure provides season dates and bag limits for turkey hunting.

(ix) We prohibit the possession or use of lead shot or buckshot for deer hunting. We allow lead shot for turkey hunting.

(x) We prohibit the use of dogs for deer hunting.

(4) *Sport fishing.* We allow sport fishing, frogging, and crawfishing on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (i)(2)(iii), (ix), (x) through (xv), and (xvii), and (i)(3)(ii) of this section apply.

(ii) From March 1 through November 30, we allow fishing, frogging, and crawfishing on all refuge waters. From December 1 through February 28, we allow bank fishing only on Woody Pond and other non-waterfowl sanctuary areas.

(iii) Anglers, including those frogging and crawfishing, may enter the refuge at 4 a.m. and must leave the refuge no later than 1 hour after legal sunset.

(iv) We prohibit the take or possession of turtles and/or mollusks (see § 27.21 of this chapter).

(v) Anglers may launch boats only in designated areas.

(vi) We allow fishing, frogging, and crawfishing for personal use only. All crawfish traps must have the owner's Arkansas Game and Fish Commission license customer identification number permanently affixed.

(vii) We prohibit tournament fishing.

\* \* \* \* \*

■ 6. Amend § 32.24 by:

■ a. In paragraph (e)(1)(ii), in the first sentence, removing the word “A8N” and adding in its place the word “A8”; and

■ b. Revising paragraphs (e)(1)(vii) and (i)(1) introductory text to read as follows:

§ 32.24 California.

\* \* \* \* \*

(e) \* \* \*

(1) \* \* \*

(vii) You may not possess more than 25 shot shells while in the field once you have left your assigned parking lot for Ponds AB1, A2E, AB2, A3N, A3W, A5, A7, and A8, and the Ravenswood Unit.

\* \* \* \* \*

(i) \* \* \*

(1) *Migratory game bird hunting.* We allow hunting of goose, duck, coot, snipe, and moorhen on designated areas of the refuge subject to the following conditions:

\* \* \* \* \*

■ 7. Amend § 32.27 by revising paragraphs (a)(1)(ii) and (b)(1)(ii) to read as follows:

§ 32.27 Delaware.

\* \* \* \* \*

(a) \* \* \*

(1) \* \* \*

(ii) You must complete and return a Harvest Report (FWS Form 3–2542), available at the refuge administration office or on the refuge's website, within 15 days of the close of the season.

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(ii) You must complete and return a Harvest Report (FWS Form 3–2542), available at the refuge administration office or on the refuge's website, within 15 days of the close of the season.

\* \* \* \* \*

■ 8. Amend § 32.28 by:

■ a. Revising paragraphs (e)(1) through (3);

■ b. Redesignating paragraphs (f) through (o) as paragraphs (g) through (p);

■ c. Adding a new paragraph (f); and

■ d. Revising newly redesignated paragraphs (j)(2)(i), (j)(3)(i), (j)(3)(vii), (k)(1)(x), (n)(3)(ii), (iv), and (viii).

The revisions and addition read as follows:

§ 32.28 Florida.

\* \* \* \* \*

(e) \* \* \* (1) *Migratory game bird hunting.* We allow hunting of migratory game birds and the incidental take of nonnative wildlife as defined by the State on designated areas of the refuge in accordance with State regulations and applicable State Wildlife Management Area regulations.

(2) *Upland game hunting.* We allow upland game hunting and the incidental take of nonnative wildlife as defined by the State on designated areas of the refuge in accordance with State regulations and applicable State Wildlife Management Area regulations.

(3) *Big game hunting.* We allow big game hunting and the incidental take of nonnative wildlife as defined by the State on designated areas of the refuge in accordance with State regulations and applicable State Wildlife Management Area regulations.

\* \* \* \* \*

(f) *Florida Panther National Wildlife Refuge.* (1)–(2) [Reserved]

(3) *Big game hunting.* We allow hunting of turkey on designated areas of the refuge subject to the following conditions:

(i) We require a valid Florida Panther National Wildlife Refuge Big Game Quota Hunt Permit purchased through the Florida Fish and Wildlife Conservation Commission. The quota hunt permit is a limited entry quota permit, and is nontransferable.

(ii) You must have a valid signed Florida Panther NWR turkey hunt brochure, which is free and non-transferable.

(iii) Each Big Game Quota Hunt Permit is issued for the take of 1 bearded turkey. A family hunt/camp experience permit is issued for take of 2 bearded turkeys.

(iv) We allow bows, crossbows, PCP air guns propelling a bolt or arrow, and shotguns using #2 or smaller shot size.

(v) We require an adult, age 18 or older, to supervise hunters age 15 and younger. The adult must remain within sight and normal voice contact of the youth hunter.

(vi) Hunters possessing a valid Big Game Quota Hunt Permit purchased through the Florida Fish and Wildlife Conservation Commission may access the refuge no earlier than 2 hours before legal sunrise and must leave the refuge no later than legal sunset. Hunters possessing a valid family hunt/camp experience permit may remain on the refuge overnight.

(vii) We allow hunting from 1/2 hour before legal sunrise until 1 p.m.

(viii) We allow only federally approved nontoxic shot (see § 32.2(k)).

(ix) We only allow permitted hunters participating in the limited entry quota hunt to operate off-road vehicles (swamp buggies, all-terrain/utility-type vehicles) on designated roads, trails, and firebreaks.

(x) We allow hunters with permits to scout 7 days prior to the individual's permitted hunt.

(4) *Sport fishing.* We allow fishing on designated areas of the refuge subject to the following conditions:

(i) We allow fishing from legal sunrise to legal sunset.

(ii) We only allow hook and line. We prohibit snatch hooks, cast nets, seines, trotlines, jugs, and yo-yos.

\* \* \* \* \*

(j) \* \* \*

(2) \* \* \*

(i) The conditions set forth at paragraphs (j)(1)(i) through (viii) of this section apply.

\* \* \* \* \*

(3) \* \* \*

(i) The conditions set forth at paragraphs (j)(1)(i) through (viii) of this section apply.

\* \* \* \* \*

(vii) Hunters must fill out a Harvest Report (FWS Form 3–2542) and check all game harvested during all deer and hog hunts.

\* \* \* \* \*

(k) \* \* \*

(1) \* \* \*

(x) You must stop at a posted refuge waterfowl check station and report statistical hunt information on the Harvest Report (FWS Form 3–2542) to refuge personnel.

\* \* \* \* \*

(n) \* \* \*

(3) \* \* \*

(ii) The conditions set forth at paragraphs (n)(2)(ii) and (iv) through (vii) of this section apply.

\* \* \* \* \*

(iv) There is a two deer limit per hunt, as specified at paragraph (n)(3)(vi) of this section, except during the youth hunt, when the limit is as specified at paragraph (n)(3)(vii) of this section. The limit for turkey is one per hunt.

\* \* \* \* \*

(viii) Mobility-impaired hunters may have an assistant accompany them. You may transfer permits (State-issued permit) issued to the hunter to assistants. We limit those hunt teams to harvesting white-tailed deer and feral hog within the limits provided at paragraph (n)(3)(vi) of this section.

\* \* \* \* \*

■ 9. Amend § 32.29 by revising paragraph (e)(3) to read as follows:

§ 32.29 Georgia.

\* \* \* \* \*

(e) \* \* \*

(3) *Big game hunting.* We allow hunting of white-tailed deer and turkey, and the incidental take of coyote, armadillo, and feral hog, on designated areas of the refuge subject to the following conditions:

(i) We require a signed refuge hunt permit (FWS Form 3–2439) for all hunters age 16 and older. Hunters must sign the permit and carry it with them at all times when hunting.

(ii) Each hunter may place one stand on the refuge during the week preceding each hunt, but must remove the stand by the end of each hunt (see § 27.93 of this chapter).

(iii) We prohibit hunting within 100 yards (91 meters) of Harris Neck Road, the refuge entrance drive, Visitor Contact Station/Office, Barbour River Landing, Barbour River Road, or Gould's Cemetery.

(iv) We require hunters to check-in and check-out each hunt day. We require personal identification to check-in and check-out.

(v) We require hunters to check all harvested game at the check station before leaving the refuge each day.

(vi) Hunters may take five deer (no more than two antlered), and we will issue State bonus tags for two of these.

(vii) During the gun hunt, we allow only shotguns (20 gauge or larger), muzzleloaders, bows, air rifles (.30 caliber or larger), and air bows, as governed by State regulations. We prohibit the use of centerfire rifles.

(viii) We allow the incidental take of armadillo, feral hog, and coyote during any refuge hunt with the weapons legal for that hunt, subject to applicable State seasons and regulations. There is no bag limit for these species.

(ix) The turkey hunt is a youth-only, archery hunt limited to 2 days per year. To participate in the turkey hunt, youth must complete an application (FWS Form 3–2439), submit the completed application to the refuge, and be selected by lottery. Each youth hunter selected by lottery to participate in the turkey hunt must possess a free signed refuge hunt brochure while hunting.

\* \* \* \* \*

■ 10. Amend § 32.31 by:

■ a. Revising paragraphs (b)(1) and (2);

■ b. Adding paragraph (b)(3); and

■ c. Revising paragraph (e)(4).

The revisions and addition read as follows:

§ 32.31 Idaho.

\* \* \* \* \*

(b) \* \* \* (1) *Migratory game bird hunting*. We allow hunting of duck, goose, coot, snipe, and dove on designated areas of the refuge subject to the following conditions:

(i) We allow hunters to access the refuge 1 hour before legal shooting time.

(ii) You may only use portable blinds or construct temporary blinds of natural vegetation. Blinds will be available for general use on a first-come, first-served basis. You must remove portable blinds, decoys, and other personal property at the end of each day's hunt (see § 27.93 of this chapter).

(iii) We allow the use of dogs when hunting.

(iv) You may take Eurasian collared-doves only during the State seasons for migratory birds and upland game birds.

(2) *Upland game hunting*. We allow hunting of pheasant, grouse, and partridge on designated areas of the refuge subject to the following conditions:

(i) The condition set forth at paragraph (b)(1)(iii) of this section applies.

(ii) We allow hunters to access the refuge ½ hour before legal shooting time.

(iii) Hunters must wear a minimum of 36 square inches (232.3 square centimeters) of blaze orange, and a blaze orange head covering.

(3) *Big game hunting*. We allow hunting of elk on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (b)(2)(ii) and (iii) of this section apply.

(ii) You must carry a signed copy of the refuge hunting regulations and hunt map (signed brochure) in the field while hunting.

\* \* \* \* \*

(e) \* \* \*

(4) *Sport fishing*. We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) We allow bank fishing only.

(ii) We prohibit launching boats from, and landing boats on, the banks of Deep Creek.

\* \* \* \* \*

■ 11. Amend § 32.32 by:

■ a. Revising paragraph (b)(4);

■ b. Removing paragraph (c)(1)(ii);

■ c. Redesignating paragraph (c)(1)(iii) as paragraph (c)(1)(ii);

■ d. Revising paragraph (c)(2)(i);

■ e. Removing paragraphs (c)(4)(i), (v), and (vi);

■ f. Redesignating paragraphs (c)(4)(ii) through (iv) as paragraphs (c)(4)(i) through (iii); and

■ g. Revising paragraphs (f)(1) through (3), (g)(2)(ii), (g)(3), (k)(2)(v), and (k)(3)(i).

The revisions read as follows:

**§ 32.32 Illinois.**

\* \* \* \* \*

(b) \* \* \*

(4) *Sport fishing*. We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) On Crab Orchard Lake west of Wolf Creek Road:

(A) Anglers may fish from boats all year.

(B) Anglers must remove all trotlines/jugs from legal sunrise until legal sunset from the Friday immediately prior to Memorial Day through Labor Day.

(ii) On Crab Orchard Lake east of Wolf Creek Road:

(A) Anglers may fish from boats March 1 through October 15.

(B) Anglers may fish all year at the Wolf Creek and Route 148 causeways.

(iii) On A-41 and Bluegill Ponds:

(A) Anglers may fish only from legal sunrise to legal sunset from March 1 through October 15.

(B) We prohibit anglers from using gas-powered boats.

(iv) On Managers, Honkers, and Visitors Ponds:

(A) Anglers may fish all year from legal sunrise to legal sunset.

(B) We prohibit anglers from using gas-powered boats.

(v) Trotlines/jugs:

(A) We prohibit the use of trotlines/jugs on all refuge waters outside of Crab Orchard Lake.

(B) We prohibit the use of trotlines/jugs with any flotation device that has previously contained any petroleum-based material or toxic substances.

(C) Anglers must attach a buoyed device that is visible on the water's surface to all trotlines.

(vi) Anglers may use all legal noncommercial fishing methods, except they may not use any underwater breathing apparatus.

(vii) Anglers may not submerge any poles or similar objects to take or locate any fish.

(viii) Organizers of all fishing events must possess a Special Use Permit (FWS Form 3-1383-G or FWS Form 3-1383-C).

(ix) We prohibit anglers from fishing within 250 yards (228 meters) of an occupied waterfowl hunting blind.

(x) Specific creel and size limits apply on various refuge waters as listed in the Crab Orchard fishing brochure and the annual Illinois fishing digest.

(c) \* \* \*

(2) \* \* \*

(i) The conditions set forth at paragraphs (c)(1)(i) and (ii) of this section apply.

\* \* \* \* \*

(f) \* \* \* (1) *Migratory game bird hunting*. We allow hunting of migratory game birds on designated areas of the refuge subject to the following conditions:

(i) You must remove personal belongings, including, but not limited to, all boats, decoys, blinds, blind materials, stands, and platforms brought onto the refuge at the end of each day's hunt (see §§ 27.93 and 27.94 of this chapter).

(ii) Hunters may enter the refuge no earlier than ½ hour before legal shooting hours and must exit the refuge no later than ½ hour after legal shooting hours.

(2) *Upland game hunting*. We allow upland game and turkey hunting on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (f)(1)(i) and (ii) of this section apply.

(ii) For hunting, you may use or possess only approved nontoxic shot shells while in the field, including shot shells used for hunting wild turkey (see § 32.2(k)).

(3) *Big game hunting*. We allow big game hunting on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (f)(1)(i) and (ii) of this section apply.

(ii) We prohibit organized deer drives. We define a "deer drive" as an organized or planned effort to pursue, drive, chase, or otherwise frighten or cause deer to move in the direction of any person(s) who is part of the organized or planned hunt and known to be waiting for the deer.

\* \* \* \* \*

(g) \* \* \*

(2) \* \* \*

(ii) You must remove personal belongings, including, but not limited to, all boats, decoys, blinds, blind materials, stands, platforms, and other hunting equipment brought onto the refuge at the end of each day's hunt (see §§ 27.93 and 27.94 of this chapter).

(3) *Big game hunting*. We allow hunting of white-tailed deer on designated areas of the refuge subject to the following conditions:

(i) The condition set forth at paragraph (g)(2)(ii) of this section applies.

(ii) We prohibit organized deer drives. We define a "deer drive" as an organized or planned effort to pursue,



drive, chase, or otherwise frighten or cause deer to move in the direction of any person(s) who is part of the organized or planned hunt and known to be waiting for the deer.

\* \* \* \* \*

(k) \* \* \*  
(2) \* \* \*

(v) Hunters may only hunt from ½ hour before legal sunrise to no later than ½ hour after legal sunset, and they must follow all State requirements for legal hunting hours.

(3) \* \* \*

(i) The conditions set forth at paragraphs (k)(1)(i) and (k)(2)(v) of this section apply.

\* \* \* \* \*

■ 12. Amend § 32.37 by revising paragraphs (c), (d), (e), (g), (i)(1)(iv), (i)(3)(iii), (j), (m), (o)(1)(iv), (o)(3)(v), (q), (r), (s)(1)(iv), (t), and (u) to read as follows:

**§ 32.37 Louisiana.**

\* \* \* \* \*

(c) *Bayou Sauvage National Wildlife Refuge*—(1) *Migratory game bird hunting*. We allow hunting of duck, merganser, teal, light and dark goose, coot, gallinule, rail, snipe, and dove on designated areas of the refuge subject to the following conditions:

(i) Hunters and anglers must possess and carry a valid, signed refuge hunting and fishing brochure.

(ii) We only allow youth to hunt migratory game birds.

(iii) All youth hunters age 15 and younger must be supervised by an adult during hunts. The youth must be capable of and must actively participate in the hunt by possessing and/or firing a legal weapon during the hunt for the express purpose of harvesting game.

(iv) One adult may supervise up to two youths during upland game hunts and migratory bird hunts, but may supervise only one youth during big game hunts. The supervising adult must maintain visual and voice contact with the youth at all times.

(v) Adults accompanying youth on any refuge hunts may participate by hunting (except during the State youth-only seasons), but are not allowed to harvest more than their own daily bag limit (see § 20.24 of this chapter). Youth must harvest their own bag limits.

(vi) We allow migratory bird hunting on Wednesdays, Thursdays, Saturdays, and Sundays from ½ hour before legal sunrise until 2 p.m.

(vii) We open the refuge to goose youth hunting during any segment of goose season that extends beyond the regular duck season.

(viii) Migratory bird hunters may not enter the refuge prior to 4 a.m. on the

day of the hunt and must remove all portable blinds and decoys (see § 27.93 of this chapter) no later than 2 p.m.

(ix) We prohibit hunting within 500 feet (152 meters (m)) of any residence or structure adjacent to the refuge, and we prohibit hunting within 200 feet (61 m) of any road, railroad, levee, water control structure, designated public use trail, designated parking area, or other designated public use facility.

(x) We prohibit mud boats or air cooled propulsion vessels, including “surface-drive” boats, except when traversing through the Intracoastal Waterway and the Irish Bayou Straight Canal only.

(xi) We only allow the incidental take of nutria with approved shot and weapons during any open youth waterfowl season on the refuge.

(xii) We allow the incidental take of coyote, raccoon, feral hog, armadillo, and opossum with approved shot and weapons allowed during any open season on the refuge.

(xiii) We allow only the use of reflective tacks as marking devices.

(2) *Upland game hunting*. We allow hunting of rabbit, and the incidental take of nutria, coyote, raccoon, armadillo, and opossum, on designated areas of the refuge subject to the following conditions:

(i) We only allow youth hunting of upland game.

(ii) When hunting, you must possess only shot size 4 or smaller or 0.22 caliber rimfire rifles or smaller. We allow the use of air rifles.

(iii) When hunting rabbit, we allow the use of dogs only after the close of the State archery deer season.

(iv) The conditions set forth at paragraphs (c)(1)(i), (iii) through (v), and (ix) through (xiii) of this section apply.

(3) *Big game hunting*. We only allow youth hunting of white-tailed deer, and the incidental take of feral hog, on designated areas of the refuge subject to the following conditions:

(i) We are open to youth hunting only during the State deer archery season.

(ii) We prohibit organized deer drives. We define a “deer drive” as an organized or planned effort to pursue, drive, chase, or otherwise frighten or cause deer to move in the direction of any person(s) who is part of the organized or planned hunt and known to be waiting for the deer.

(iii) We allow placement of temporary deer stands no earlier than 48 hours prior to the start of deer archery season. Hunters must remove all deer stands within 48 hours after the archery deer season closes (see § 27.93 of this chapter).

(iv) We allow only one deer stand per hunter on the refuge. Deer stands must have the owner’s State license/sportsmen’s identification number clearly printed on the stand.

(v) We prohibit the use of deer decoys.

(vi) The conditions set forth at paragraphs (c)(1)(i), (iii) through (v), and (ix) through (xiii) of this section apply.

(4) *Sport fishing*. We allow recreational finfishing and shellfishing on designated areas of the refuge subject to the following conditions:

(i) We allow daytime sport finfishing and shellfishing year-round on designated areas of the refuge. On portions of the refuge outside of the Hurricane Protection Levee, we allow daytime sport finfishing and shellfishing from November 1 through January 31 and during the State teal season, but only after 2 p.m.

(ii) We only allow sport finfishing with hand-held rod and reel or hand-held rod and line.

(iii) You may take bait shrimp with cast nets only.

(iv) You may take crawfish (up to 100 pounds (45 kilograms) per person, per day) with crawfish or dip nets only.

(v) We allow only recreational crabbing.

(vi) You must attend all fishing, crabbing, and crawfishing equipment at all times.

(vii) We prohibit the use of trotlines, limblines, slat traps, gar sets, nets, and alligator lines on the refuge.

(viii) The conditions set forth at paragraphs (c)(1)(i), (x), and (xiii) of this section apply.

(d) *Bayou Teche National Wildlife Refuge*—(1) *Migratory game bird hunting*. We allow hunting of duck, merganser, teal, light and dark goose, coot, gallinule, rail, snipe, dove, and woodcock on designated areas of the refuge subject to the following conditions:

(i) Each person age 18 and older must possess and carry a valid, signed refuge user brochure while on the refuge.

(ii) We prohibit hunting or discharge of firearms (see § 27.42 of this chapter) within 500 feet (152 meters (m)) of any residence or oil and gas infrastructure, or within 200 feet (61 m) of any road, railroad, levee, water control structure, designated public use trail, designated parking area, or other designated public use facility.

(iii) All youth hunters age 15 and younger must be supervised by an adult during all hunts. One adult may supervise up to two youths during small game and migratory game bird hunts, but may supervise only one youth during big game hunts. The supervising



adult must maintain visual and voice contact with the youth at all times. Adult guardians are responsible for ensuring that youth hunters do not violate refuge rules.

(iv) We require waterfowl and gallinule hunters to remove all portable blinds and decoys from the refuge by 2 p.m. each day (see §§ 27.93 and 27.94 of this chapter).

(v) Migratory bird hunters are only allowed to enter the refuge after 4 a.m.

(vi) We allow waterfowl hunting daily until 2 p.m. during the State regular season, State teal season, and State youth and veteran waterfowl seasons. We allow gallinule, snipe, and rail hunting until 2 p.m.

(vii) When hunting migratory game birds, you may only use dogs to locate, point, and retrieve game.

(viii) We allow only the use of reflective tacks as marking devices.

(ix) We only allow the incidental take of nutria with approved shot and weapons during any open waterfowl season on the refuge.

(x) We allow the incidental take of raccoon, feral hog, armadillo, opossum, and coyote with approved shot and weapons during any open season on the refuge.

(2) *Upland game hunting.* We allow hunting of squirrel and rabbit, and the incidental take of nutria, coyote, raccoon, armadillo, and opossum, on designated areas of the refuge subject to the following conditions:

(i) We only allow hunting from the start of the State squirrel and rabbit seasons until the last day of State waterfowl season for the State Waterfowl Zone in which you are hunting.

(ii) We prohibit upland game hunting on days corresponding with refuge deer gun hunts.

(iii) Hunters must leave the refuge no later than 2 hours after legal sunset.

(iv) When hunting, you must possess only shot size 4 or smaller or 0.22 caliber rimfire rifles or smaller. We allow the use of air rifles.

(v) The conditions set forth at paragraphs (d)(1)(i) through (iii) and (viii) through (x) of this section apply.

(3) *Big game hunting.* We allow the hunting of white-tailed deer, and the incidental take of feral hog, on designated areas of the refuge subject to the following conditions:

(i) We allow hunting of deer only with firearms (see § 27.42 of this chapter) during 5 specific days during October and November. A youth gun hunt will occur during the last weekend of October. The general gun hunt will occur during the final full weekend in November. The youth gun hunt includes

both Saturday and Sunday. The general gun hunt includes the Friday immediately before the weekend.

(ii) We allow archery deer hunting according to the State of Louisiana archery season. We close refuge archery hunting during refuge deer gun hunts.

(iii) We allow each hunter to possess only one deer per day; the deer may be a buck or a doe.

(iv) Hunters may use only portable deer stands. Hunters may erect deer stands no earlier than 48 hours before the deer archery season and must remove them from the refuge within 48 hours after the season closes (see § 27.93 of this chapter). Hunters may place only one deer stand on the refuge. Deer stands must have the owner's State hunting license/sportsman's identification number clearly printed on the stand.

(v) The conditions set forth at paragraphs (d)(1)(i) through (iii), (viii), and (x), and (d)(2)(iii) of this section apply.

(vi) We prohibit the use of deer decoys.

(vii) We prohibit organized deer drives. We define a "deer drive" as an organized or planned effort to pursue, drive, chase, or otherwise frighten or cause deer to move in the direction of any person(s) who is part of the organized or planned hunt and known to be waiting for the deer.

(viii) Deer hunters must display State Wildlife Management Area (WMA) hunter-orange or blaze-pink (as governed by State WMA regulations).

(4) *Sport fishing.* We allow sport fishing in all refuge waters subject to the following conditions:

(i) We prohibit the use of unattended nets, traps, or lines (trot, jug, bush, etc.).

(ii) The condition set forth at paragraph (d)(1)(i) of this section applies.

(iii) The refuge is only open to recreational finfishing and shellfishing from legal sunrise to legal sunset.

(e) *Big Branch Marsh National Wildlife Refuge—(1) Migratory game bird hunting.* We allow hunting of duck, merganser, teal, coot, light and dark goose, snipe, rail, gallinule, dove, and woodcock on designated areas of the refuge subject to the following conditions:

(i) Each person age 18 and older must possess and carry a valid, signed refuge user brochure while on the refuge.

(ii) We allow waterfowl, snipe, rail, gallinule, dove, and goose hunting on Wednesdays, Thursdays, Saturdays, and Sundays from ½ hour before legal sunrise until 2 p.m., including waterfowl hunting during the State teal season and State youth and veterans

waterfowl seasons. We only allow hunting of woodcock until 2 p.m.

(iii) We allow light goose hunting for that part of the season that extends beyond the regular duck season from ½ hour before legal sunrise until 2 p.m.

(iv) We allow only temporary blinds, and hunters must remove blinds and decoys by 2 p.m. each day (see § 27.93 of this chapter).

(v) All youth hunters age 15 and younger must be supervised by an adult during all hunts. One adult may supervise up to two youths during small game hunts and migratory bird hunts, but may supervise only one youth during big game hunts. The supervising adult must maintain visual and voice contact with the youth at all times. Adult guardians are responsible for ensuring that youth hunters do not violate refuge rules.

(vi) We prohibit hunting or discharge of firearms (see § 27.42 of this chapter) within 500 feet (152 meters (m)) of any residence adjacent to the refuge or oil and gas infrastructure on the refuge, or within 200 feet (61 m) from the center of any road, railroad, levee, water control structure, designated public use maintained trail, designated parking area, or other designated public use facility.

(vii) We allow migratory bird hunters to enter the refuge no earlier than 4 a.m., and all hunters must exit the refuge no later than 2 hours after legal sunset.

(viii) We allow only reflective tacks as trail markers on the refuge.

(ix) We allow the incidental take of raccoon, feral hog, armadillo, opossum, and coyote with approved shot and weapons allowed during any open season on the refuge.

(x) We only allow the incidental take of nutria with approved shot and weapons during any open waterfowl (duck, teal, merganser, light and dark goose, and coot) season on the refuge.

(2) *Upland game hunting.* We allow hunting of squirrel, rabbit, and quail, and the incidental take of nutria, coyote, raccoon, armadillo, and opossum, on designated areas of the refuge subject to the following conditions:

(i) When hunting, you must possess only shot size 4 or smaller, or 0.22 caliber rim-fire rifles or smaller. We allow the use of air rifles.

(ii) When hunting squirrel and rabbit, and for the incidental take of raccoon, we allow the use of dogs only after the close of the State archery deer season. When hunting quail, you may only use dogs to locate, point, and retrieve.

(iii) The conditions set forth at paragraphs (e)(1)(i), (v), (vi), and (viii) through (x) of this section apply.

(iv) During the dog season for squirrel and rabbit, all hunters, including archers (while on the ground), except waterfowl hunters, must wear a minimum of a cap or hat that is hunter orange, blaze pink, or other such color as governed by State regulations.

(v) We only allow hunting of quail until 2 p.m.

(3) *Big game hunting.* We allow hunting of white-tailed deer, and the incidental take of feral hog, on designated areas of the refuge subject to the following conditions:

(i) We are open only during the State season for archery hunting of deer.

(ii) We prohibit organized deer drives. We define a "deer drive" as an organized or planned effort to pursue, drive, chase, or otherwise frighten or cause deer to move in the direction of any person(s) who is part of the organized or planned hunt and known to be waiting for the deer.

(iii) We allow placement of temporary deer stands no earlier than 48 hours prior to the start of deer archery season. Hunters must remove all deer stands within 48 hours after the archery deer season closes (see § 27.93 of this chapter). We allow only one deer stand per hunter on the refuge. Deer stands must have the owner's State license/sportsmen's identification number clearly printed on the stand. We prohibit hunting stands on trees painted with white bands.

(iv) The conditions set forth at paragraphs (e)(1)(i), (v), (vi), and (viii) through (x) of this section apply.

(v) We prohibit the use of deer decoys.

(4) *Sport fishing.* We allow recreational finfishing and shellfishing on designated areas of the refuge subject to the following conditions:

(i) You may only fish from legal sunrise until legal sunset, except we allow night fishing from the bank and pier on Lake Road.

(ii) You must only use rod and reel or pole and line while finfishing.

(iii) You must attend to any fishing, crabbing, and crawfishing equipment at all times.

(iv) The condition set forth at paragraph (e)(1)(i) of this section applies.

\* \* \* \* \*

(g) *Bogue Chitto National Wildlife Refuge—(1) Migratory game bird hunting.* We allow hunting of duck, merganser, teal, light and dark goose, coot, gallinule, rail, snipe, dove, and woodcock on designated areas of the refuge subject to the following conditions:

(i) Each person age 18 and older must possess and carry a valid, signed refuge user brochure while on the refuge.

(ii) We only allow hunting of duck, merganser, teal, light and dark goose, and gallinule from ½ hour before legal sunrise until 2 p.m. of the State seasons, including during the State teal season, State youth waterfowl season, State veterans season, and special light goose conservation season.

(iii) You must remove blinds and decoys by 2 p.m. each day (see § 27.93 of this chapter).

(iv) When hunting migratory game birds, you may only use dogs to locate, point, and retrieve game.

(v) All youth hunters age 15 and younger must be supervised by an adult during all hunts. One adult may supervise up to two youths during upland game hunts and migratory bird hunts, but may supervise only one youth during big game hunts. The supervising adult must maintain visual and voice contact with the youth at all times. Adult guardians are responsible for ensuring that youth hunters do not violate refuge rules.

(vi) We prohibit hunting or discharge of firearms (see § 27.42 of this chapter) within 500 feet (152 meters (m)) of any residence or oil and gas infrastructure, or within 200 feet (61 m) of any road, railroad, levee, water control structure, designated public use trail, building, designated camping area, designated parking area, or other designated public facility.

(vii) For the purpose of hunting, we prohibit possession of slugs, buckshot, and rifle and pistol ammunition, except during the deer gun and primitive firearm seasons (see § 32.2(k)).

(viii) You may use only reflective tacks as trail markers on the refuge.

(ix) We allow the incidental take of feral hog, raccoon, armadillo, opossum, and coyote with approved shot and weapons allowed during any open season on the refuge.

(x) We only allow incidental take of nutria with approved shot and weapons during any open waterfowl season on the refuge.

(2) *Upland game hunting.* We allow hunting of squirrel, rabbit, and quail, and the incidental take of nutria, coyote, raccoon, armadillo, and opossum, on designated areas of the refuge subject to the following conditions:

(i) We allow the use of dogs for rabbit and squirrel hunting, and the incidental take of raccoon, on specific dates listed in the refuge hunt brochure.

(ii) During any open deer firearm or primitive firearm season on the refuge, all hunters, except waterfowl hunters, must wear hunter orange, blaze pink, or

other such color as governed by State regulations.

(iii) The conditions set forth at paragraphs (g)(1)(i) and (v) through (x) of this section apply.

(iv) You may use .22-caliber rifles or smaller while hunting upland game and ammunition must be size 4 or smaller (see § 32.2(k)).

(v) We will close the refuge to hunting (except waterfowl) and camping when the Pearl River reaches 15.5 feet (4.72 meters) on the Pearl River Gauge at Pearl River, Louisiana.

(vi) During the dog season for squirrels, rabbits, and incidental take of raccoon, all hunters, including archery hunters (while on the ground), except waterfowl hunters, must wear a cap or hat that is hunter-orange, blaze pink, or other such color as governed by State regulations.

(vii) We prohibit upland game hunting on days corresponding with refuge deer gun and primitive firearm hunts.

(viii) We only allow quail hunting until 2 p.m.

(3) *Big game hunting.* We allow hunting of white-tailed deer, turkey, and feral hog, and the incidental take of feral hog, on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (g)(1)(i) and (v) through (x), and (g)(2)(ii), (v), and (vi) of this section apply.

(ii) Hunters may erect deer stands no earlier than 48 hours before the deer archery season opens and must remove them from the refuge within 48 hours after this season closes (see § 27.93 of this chapter). We allow only one deer stand per hunter on the refuge. Deer stands must have the owner's State license/sportsmen's identification number clearly printed on the stand.

(iii) Deer hunters hunting from concealed blinds must display State Wildlife Management Area (WMA) hunter-orange or blaze-pink (as governed by State WMA regulations) above or around their blinds that is visible from 360 degrees.

(iv) We hold a special dog hog hunt in February. During this hunt, the following conditions apply, in addition to the other conditions set forth in this paragraph (g)(3):

(A) You must use trained hog-hunting dogs to aid in the take of hog.

(B) We allow take of hog from ½ hour before legal sunrise until ½ hour after legal sunset.

(C) You must possess only approved nontoxic shot, or pistol or rifle ammunition not larger than .22 caliber rim-fire, to take the hog after it has been caught by dogs.

(v) You must kill all hogs prior to removal from the refuge.

(vi) We prohibit the use of deer and turkey gobbler decoys.

(vii) We prohibit using shot larger than BB-lead, or T-steel, while hunting during turkey season.

(viii) We describe the dates for turkey hunts and deer general gun hunts, youth hunts, and veterans hunts in the refuge user brochure.

(4) *Sport fishing.* We allow only recreational fishing year-round on designated areas of the refuge subject to the following conditions:

(i) We only allow cotton limb lines.

(ii) We close the fishing ponds at the Pearl River Turnaround to fishing from April through the first full week of June and to boating during the months of April, May, June, and July.

(iii) When the Pearl River Turnaround area is open, we allow boats that do not have gasoline-powered engines attached in the fishing ponds at the Pearl River Turnaround. Anglers must hand-launch these boats into the ponds. When the fishing ponds at the Pearl River Turnaround are open, hook and line is the only legal method of take in those ponds.

(iv) The Pearl River Turnaround area, when open to fishing, is open ½ hour before legal sunrise to ½ hour after legal sunset.

(v) The conditions set forth at paragraphs (g)(1)(i) and (viii), and (g)(2)(v) of this section apply.

\* \* \* \* \*

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(iv) Every hunter must complete and turn in a Harvest Report (FWS Form 3–2542) available from a self-clearing check station after each hunt.

\* \* \* \* \*

(3) \* \* \*

(iii) Each hunter must complete and turn in a Harvest Report (FWS Form 3–2542) available from a self-clearing check station after each hunt.

\* \* \* \* \*

(j) *Cat Island National Wildlife Refuge—(1) Migratory game bird hunting.* We allow hunting of duck, merganser, teal, light and dark goose, coot, snipe, rail, gallinule, dove, and woodcock on designated areas of the refuge subject to the following conditions:

(i) Each person age 18 and older must possess and carry a valid, signed refuge user brochure while on the refuge.

(ii) We allow migratory bird hunters to enter the refuge no earlier than 4 a.m., and all hunters must exit the refuge within 2 hours after legal sunset.

(iii) We allow the incidental take of beaver, feral hog, raccoon, armadillo,

opossum, and coyote with approved shot and weapons allowed during any open season on the refuge.

(iv) We allow all-terrain vehicles (ATVs) and utility-type vehicle (UTVs) as governed by State Wildlife Management Area regulations and size specifications on designated trails (see § 27.31 of this chapter) from the third Saturday in September until February 28.

(v) We prohibit hunting within 500 feet (152 meters (m)) of any residence or oil and gas infrastructure, or within 200 feet (61 m) of any road, railroad, levee, water control structure, designated public use trail, building, designated parking area, or designated public use facility.

(vi) All youth hunters age 15 and younger must be supervised by an adult during hunts. One adult may supervise up to two youths during small game hunts and migratory bird hunts, but may supervise only one youth during big game hunts. The supervising adult must maintain visual and voice contact with the youth at all times. Adult guardians are responsible for ensuring that youth hunters do not violate refuge rules.

(vii) We allow waterfowl (duck, merganser, teal, light and dark goose, and coot) and gallinule hunting daily during the State regular season, including waterfowl hunting during the State teal season and State youth and veteran waterfowl seasons, from ½ hour before legal sunrise until 2 p.m.

(viii) You must remove harvested waterfowl, temporary blinds, and decoys used for duck hunting by 2 p.m. each day (see § 27.93 of this chapter).

(ix) When hunting migratory game birds, you may only use dogs to locate, point, and retrieve.

(x) We prohibit accessing refuge property by boat from the Mississippi River.

(xi) We allow only the use of reflective tacks as marking devices.

(xii) We only allow the incidental take of nutria with approved shot and weapons during any open waterfowl season on the refuge.

(2) *Upland game hunting.* We allow hunting of squirrel and rabbit, and the incidental take of nutria, beaver, coyote, raccoon, armadillo, and opossum, on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (j)(1)(i) through (vi) and (x) through (xii) of this section apply.

(ii) While upland game hunting, we prohibit the possession of hunting firearms larger than 0.22 caliber rimfire, shotgun slugs, and buckshot (see § 27.42 of this chapter).

(iii) We allow the use of dogs during designated small game with dog seasons. We require the owner's contact information on the collars of all dogs. We only allow up to two dogs per hunting party for squirrel hunting.

(iv) We prohibit upland game hunting on days corresponding with refuge deer gun hunts.

(3) *Big game hunting.* We allow hunting of white-tailed deer on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (j)(1)(i) through (vi), (x), and (xi) of this section apply.

(ii) We allow archery deer hunting, youth deer gun hunting during the first weekend of the State youth firearm season, and one weekend of primitive firearm season on the refuge. We list specific dates of these hunts in the refuge annual user brochure.

(iii) Hunters may erect deer stands no earlier than 48 hours before the deer archery season opens and must remove them from the refuge within 48 hours after this season closes (see § 27.93 of this chapter). We grant extensions to retrieve stands due to high water refuge closure. We allow only one deer stand or blind per hunter on the refuge. Deer stands must have the owner's State license/sportsmen's identification number clearly printed on the stand.

(iv) You may only take one deer of either sex per day during the deer seasons listed. State season limits apply.

(v) Deer hunters must display State Wildlife Management Area (WMA) hunter-orange or blaze-pink (as governed by State WMA regulations).

(vi) We prohibit organized drives. We define a "drive" as an organized or planned effort to pursue, drive, chase, or otherwise frighten or cause game to move in the direction of any person(s) who is part of the organized or planned hunt and known to be waiting for the game.

(4) *Sport fishing.* We allow recreational finfishing and shellfishing on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (j)(1)(i), (iv) (on the open portions of Wood Duck ATV trail for wildlife-dependent activities throughout the year), (x), and (xi) of this section apply.

(ii) We prohibit slat traps or hoop nets on the refuge.

(iii) Anglers may only crawfish during designated days and times. The harvest limit is 50 pounds (22.5 kilograms) per person per day.

(iv) You must attend all crawfish traps and nets at all times. We allow up to,

and no more than, 20 traps per angler on the refuge.

\* \* \* \* \*

(m) *Delta National Wildlife Refuge—(1) Migratory game bird hunting.* We allow hunting of duck, merganser, teal, light and dark goose, dove, snipe, rail, gallinule, and coot on designated areas of the refuge subject to the following conditions:

(i) Each person age 18 and older must possess and carry a valid, signed refuge user brochure while on the refuge.

(ii) We allow migratory bird hunting on Wednesdays, Thursdays, Saturdays, and Sundays from ½ hour before legal sunrise until 2 p.m. during the State seasons, including the regular waterfowl season, the State teal season, State youth waterfowl season, State veterans waterfowl season, and State light goose special conservation season.

(iii) We only allow temporary blinds. You must remove both blinds and decoys by 2 p.m. each day (see § 27.93 of this chapter).

(iv) When hunting migratory game birds, you may only use dogs to locate, point, and retrieve game.

(v) We prohibit discharge of firearms (see § 27.42 of this chapter) within 500 feet (152 meters (m)) of any residence or oil and gas infrastructure, or within 200 feet (61 m) of any road, railroad, levee, water control structure, designated public use trail, designated parking area, or other designated public use facilities.

(vi) All youth hunters age 15 and younger must be supervised by an adult during all hunts. One adult may supervise up to two youths during upland game and migratory game bird hunts, but may supervise only one youth during big game hunts. The supervising adult must maintain visual and voice contact with the youth at all times.

(vii) Migratory bird hunters may enter the refuge no earlier than 4 a.m., and all hunters must exit the refuge no later than 2 hours after legal sunset.

(viii) We allow the incidental take of raccoon, feral hog, armadillo, opossum, and coyote with approved shot and weapons allowed during any open season on the refuge.

(ix) We only allow the incidental take of nutria with approved shot and weapons during any open waterfowl season on the refuge.

(x) We allow only the use of reflective tacks as marking devices.

(2) *Upland game hunting.* We allow hunting of rabbit, and the incidental take of nutria, coyote, raccoon, armadillo, and opossum on designated areas of the refuge subject to the following conditions:

(i) The refuge rabbit season opens the day after the State duck season closes and continues through the remainder of the State rabbit season.

(ii) We restrict hunting to shotgun only.

(iii) We allow the use of dogs when rabbit hunting.

(iv) We prohibit upland game hunting on days corresponding with refuge deer gun hunts.

(v) The conditions set forth at paragraphs (m)(1)(i) and (v) through (vii) of this section apply.

(3) *Big game hunting.* We allow hunting of white-tailed deer on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (m)(1)(i) and (v) through (x) of this section apply.

(ii) We allow archery deer hunting, bucks only, from October 1 through 15.

We allow either-sex archery deer hunting from October 16 through 31, and from the day after the close of the State duck season through the end of the State deer archery season.

(iii) We allow placement of temporary deer stands up to 48 hours prior to the start of deer archery season. Hunters must remove all deer stands within 48 hours after the archery deer season closes (see § 27.93 of this chapter). We allow only one deer stand per hunter on the refuge. Deer stands must have the owner's State license/sportsmen's identification number clearly printed on the stand.

(iv) We prohibit organized deer drives. We define a "deer drive" as an organized or planned effort to pursue, drive, chase, or otherwise frighten or cause deer to move in the direction of any person(s) who is part of the organized or planned hunt and known to be waiting for the deer.

(v) We prohibit the use of deer decoys.

(vi) We allow shotgun hunting of deer on the Saturday and Sunday during the first split of the regular waterfowl season.

(vii) Deer hunters must display State Wildlife Management Area (WMA) hunter-orange or blaze-pink (as governed by State WMA regulations).

(4) *Sport fishing.* We allow recreational finfishing and shellfishing on designated areas of the refuge subject to the following conditions:

(i) We only allow sport finfishing and shellfishing from ½ hour before legal sunrise until ½ hour after legal sunset. During the State waterfowl hunting seasons, we only allow sport finfishing and shellfishing from 2 p.m. until ½ hour after legal sunset. However, during the waterfowl season, we prohibit all

public entry between Main Pass and Raphael Pass.

(ii) We prohibit the use of trotlines, limblines, slat traps, jug lines, nets, or alligator lines.

(iii) The condition set forth at paragraph (m)(1)(i) of this section applies.

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(iv) Each hunter must complete and turn in a Harvest Report (FWS Form 3-2542), available from a self-clearing check station, after each hunt.

\* \* \* \* \*

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(v) Each hunter must complete and turn in a Harvest Report (FWS Form 3-2542) available from a self-clearing check station, after each hunt.

\* \* \* \* \*

(q) *Mandalay National Wildlife Refuge—(1) Migratory game bird hunting.* We allow hunting of duck, teal, merganser, light and dark goose, gallinule (including moorhen), coot, rail, snipe, and dove on designated areas of the refuge subject to the following conditions:

(i) Each person age 18 and older must possess and carry a valid, signed refuge user brochure while on the refuge.

(ii) We allow only youth hunting of migratory game birds and only in the Hanson Unit on Wednesdays, Thursdays, Saturdays, and Sundays until 2 p.m. of the State teal, youth, and regular waterfowl seasons.

(iii) We open the Hanson Unit only to youth goose hunting during any segment of the goose season that extends beyond the regular duck season on Wednesdays, Thursdays, Saturdays, and Sundays until 2 p.m.

(iv) Migratory bird hunters are only allowed to enter the refuge after 4 a.m.

(v) All youth hunters age 15 and younger must be supervised by an adult during all hunts. One adult may supervise up to two youths during small game and migratory game bird hunts.

An adult may supervise only one youth during big game hunts. The supervising adult must maintain visual and voice contact with the youth at all times. The youth must be capable of and must actively participate in the hunt by possessing and/or firing a legal weapon during the hunt for the express purpose of harvesting game. Parents or adult guardians are responsible for ensuring that hunters age 15 and younger do not violate refuge rules.

(vi) Adults accompanying youth on refuge hunts may participate by hunting, but are not allowed to harvest more than their own daily bag limit.

(vii) We only allow incidental take of nutria with approved shot and weapons during any open waterfowl season on the refuge.

(viii) We allow incidental take of raccoon, feral hog, armadillo, opossum, and coyote with approved shot and weapons allowed during any open season on the refuge.

(ix) We prohibit hunting within 500 feet (152 meters (m)) of any residence or oil and gas infrastructure, or within 200 feet (61 m) of any road, railroad, levee, water control structure, designated public use trail, designated parking area, or other designated public use facility.

(x) We allow only temporary blinds, and hunters must remove blinds and decoys by 2 p.m. each day (see § 27.93 of this chapter).

(2) *Upland Game Hunting.* We allow youth hunting of squirrel and rabbit, and the incidental take of nutria, coyote, raccoon, armadillo, and opossum, on designated areas of the refuge subject to the following conditions:

(i) When hunting, you must possess only shot size 4 or smaller, or 0.22 caliber rim-fire rifles or smaller. We allow the use of air rifles.

(ii) The conditions set forth at paragraphs (q)(1)(i) and (v) through (ix) apply.

(iii) The Hanson Unit is closed to youth hunting prior to 2 p.m. on Wednesdays, Thursdays, Saturdays, and Sundays during waterfowl hunt season.

(iv) Hunters must leave the refuge no later than 2 hours after legal sunset.

(3) *Big game hunting.* We allow the hunting of white-tailed deer, and the incidental take of feral hog, on designated areas of the refuge subject to the following conditions:

(i) We open the refuge to hunting of white-tailed deer only during the State archery season. We close the Hanson Unit to big game hunting prior to 2 p.m. on Wednesdays, Thursdays, Saturdays, and Sundays during State waterfowl seasons.

(ii) You may take only one deer of either sex per day.

(iii) We prohibit the use of deer decoys.

(iv) We only allow portable stands. Hunters may erect temporary deer stands no earlier than 48 hours prior to the start of deer archery season. Hunters must remove all deer stands within 48 hours after the archery deer season closes (see § 27.93 of this chapter). Hunters may place only one deer stand on the refuge. Deer stands must have the owner's State hunting license/sportsman's identification number clearly printed on the stand.

(v) We prohibit organized deer drives. We define a "deer drive" as an

organized or planned effort to pursue, drive, chase, or otherwise frighten or cause deer to move in the direction of any person(s) who is part of the organized or planned hunt and known to be waiting for the deer.

(vi) The conditions set forth at paragraphs (q)(1)(i), (v), (vi), (viii), and (ix), and (q)(2)(iv) of this section apply.

(4) *Sport fishing.* We allow recreational finfishing and shellfishing in all refuge waters subject to the following conditions:

(i) We prohibit the use of unattended nets, traps, or lines (trot, jog, bush, etc.).

(ii) The refuge is open from legal sunrise until legal sunset.

(iii) The condition set forth at paragraph (q)(1)(i) of this section applies.

(r) *Red River National Wildlife Refuge—(1) Migratory game bird hunting.* We allow hunting of duck, goose, coot, woodcock, snipe, rail, gallinule, and dove on designated areas of the refuge subject to the following conditions:

(i) Hunters must possess and carry a signed refuge brochure.

(ii) We allow waterfowl hunting until 12 p.m. (noon) during the State season. Waterfowl hunters must exit the refuge no later than 1:30 p.m.

(iii) Hunters may enter the refuge no earlier than 4 a.m.

(iv) Hunters may only hunt during designated times and seasons within specified State seasons as listed in refuge brochure.

(v) We prohibit hunting within 100 feet (30 meters) of any public road, refuge road, trail or ATV trail, residence, building, aboveground oil or gas or electrical transmission facility, or designated public facility.

(vi) When hunting migratory game birds, you may only use dogs to locate, point, and retrieve.

(vii) We allow the incidental take of coyote, beaver, and feral hogs in designated areas during any refuge hunt with the weapons legal for that hunt, subject to applicable State seasons and regulations.

(2) *Upland game hunting.* We allow hunting of quail, squirrel, rabbit, raccoon, and opossum, and incidental take of coyote and beaver, on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (r)(1)(i), (iii) through (v), and (vii) of this section apply.

(ii) We allow hunting of raccoon and opossum during the daylight hours of rabbit and squirrel season. We allow night hunting during December and January, and you may use dogs for night hunting.

(iii) We allow the use of dogs to hunt squirrel and rabbit after December 31.

(iv) Hunters must exit the refuge no later than 1 hour after legal shooting hours, unless participating in authorized hunting after legal sunset.

(3) *Big game hunting.* We allow hunting of white-tailed deer and turkey, and the incidental take of feral hog, on designated areas of the refuge subject to the following condition: The conditions set forth at paragraphs (r)(1)(i), (iii) through (v), and (vii), and (r)(2)(iv) of this section apply.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) We allow use of only electric trolling motors on all refuge waters while fishing.

(ii) Recreational fishing using commercial gear (slat traps, etc.) requires a special refuge permit (Special Use Permit (FWS Form 3-1383-G)), which is available at the refuge office. You must possess and carry the special refuge permit while fishing using commercial gear.

(iii) We prohibit the taking of alligator snapping turtle (see § 27.21 of this chapter).

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(iv) Each hunter must complete and turn in a Harvest Report (FWS Form 3-2542) from a self-clearing check station after each hunt.

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(t) *Texas River National Wildlife Refuge—(1) Migratory game bird hunting.* We allow hunting of duck, goose, rail, gallinule, coot, woodcock, and snipe on designated areas of the refuge subject to the following conditions:

(i) All hunters and anglers age 16 and older must purchase an Annual Public Use Permit (FWS Form 3-2439). This permit allows individuals to participate in open (non-quota) hunting and fishing seasons.

(ii) All hunters and anglers must obtain a Self-Clearing Permit (FWS Form 3-2405), available at refuge entry points and at the Visitor Center, and complete the self-clearing process when exiting the refuge at the end of each day.

(iii) We allow hunting of duck, goose, rail, gallinule, coot, and snipe on Tuesdays, Thursdays, Saturdays, and Sundays until 2 p.m. during the State season. We prohibit migratory bird hunting during refuge gun hunts for deer.

(iv) We allow refuge hunters to enter the refuge no earlier than 4 a.m., and they must leave no later than 2 hours after legal sunset unless they are

participating in the refuge nighttime raccoon hunt.

(v) We allow all-terrain vehicle (ATV) travel on designated trails for access typically from October 1 to the last day of the refuge squirrel season.

(vi) We prohibit field dressing of game within 150 feet (45 meters) of parking areas, maintained roads, and trails.

(vii) An adult age 18 or older must supervise youth hunters age 17 and younger during all hunts. One adult may supervise two youths during small game and migratory bird hunts, but may supervise only one youth during big game hunts. Youth must remain within normal voice contact of the adult who is supervising them.

(viii) We allow the incidental take of coyote, beaver, raccoon, opossum, feral hog, armadillo, and nutria during authorized hunts with firearms and archery equipment legal for use during the hunt.

(2) *Upland game hunting.* We allow hunting of raccoon, squirrel, and rabbit, and the incidental take of coyote, beaver, raccoon, opossum, armadillo, and nutria, on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (t)(1)(i), (ii), and (iv) through (viii) of this section apply.

(ii) A nighttime raccoon hunt will be conducted during December, January, and/or February, usually in conjunction with the adjacent State Wildlife Management Area (WMA) raccoon hunting season.

(iii) We allow the use of dogs when squirrel and rabbit hunting subject to the following conditions:

(A) We allow hunting without dogs from the beginning of the State season to December 31.

(B) From the beginning of the State season to December 31, we do not require hunters to wear hunter orange.

(C) We allow squirrel and rabbit hunting with or without dogs from January 1 to the last day of February.

(D) From January 1 to the last day of February, squirrel and rabbit hunters are required to wear a minimum solid hunter orange cap.

(E) We allow no more than three dogs per hunting party.

(iv) We close squirrel and rabbit hunting during the following gun hunts for deer: Refuge-wide youth hunt, primitive firearms hunt, and modern firearms hunts.

(3) *Big game hunting.* We allow hunting of white-tailed deer and turkey, and the incidental take of feral hogs, on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (t)(1)(i), (ii), and (iv) through (viii) of this section apply.

(ii) We require a valid Quota Modern Firearm Permit (FWS Form 3–2439) to hunt during a Deer Quota Modern Firearm Hunt. You must complete and submit an application for all Deer Quota Hunts, and hunters will be notified of their drawing status. If selected, hunters are required to purchase the Annual Public Use Permit (FWS Form 3–2439) to claim their Quota Modern Firearm Permit for the selected hunt. Hunters must carry a signed paper copy or electronic version of the permit with them on their person while hunting.

(iii) Deer archery season will begin the first Saturday in November and will conclude on January 31, except for during the youth gun hunt and modern firearms hunts, when archery is prohibited.

(iv) The deer primitive firearms season will occur between November 1 and January 31. We allow all legal primitive firearms as governed by State regulations.

(v) During the deer primitive firearms season, hunters may fit any legal primitive firearms with magnified scopes.

(vi) We allow hunters using primitive weapons to hunt reforested areas.

(vii) We prohibit youth hunters from using modern firearms during the primitive weapon hunt.

(viii) During modern firearm hunts, all firearm hunting, even hunting with primitive weapons or muzzleloaders, is governed by applicable Federal and State regulations. We require a quota hunt permit (FWS Form 3–2439) for these hunts.

(ix) During modern firearm hunts, we prohibit hunting in reforested areas. We prohibit hunting and/or shooting into or across any reforested area during the quota hunt for deer.

(x) For the guided quota youth hunts, we consider youth to be ages 8 through 15.

(xi) We will conduct a refuge-wide youth deer hunt that will coincide with the State youth hunt weekend.

(xii) Hunters may take only one deer (one buck or one doe) per day during refuge deer hunts, except that during guided youth and wheelchair-bound hunts, the limit will be one antlerless and one antlered deer per day.

(xiii) We allow turkey hunting in designated areas during the State turkey hunt season not to exceed 16 days.

(xiv) We allow a youth turkey hunt weekend in conjunction with the State youth turkey hunt weekend.

(xv) We allow muzzleloader hunters to discharge their primitive firearms at

the end of each hunt safely into the ground at least 150 feet (45 meters (m)) from any designated public road, maintained road, trail, fire break, dwelling, or aboveground oil and gas production facility. We define a “maintained road or trail” as one that has been mowed, disked, or plowed, or one that is free of trees.

(xvi) We prohibit deer hunters leaving deer stands unattended before the opening day of the refuge archery season. Hunters must remove stands from the refuge by the end of the last day of the refuge archery season (see § 27.93 of this chapter). Hunters must remove portable stands from trees at the end of each day’s hunt and place freestanding stands in a nonhunting position when unattended. Hunters must clearly mark stands left unattended on the refuge with the hunter’s last name, Louisiana Department of Wildlife and Fisheries license number, and I-Sportsman Permit Number.

(xvii) We allow hunting with slugs, rifle, or pistol ammunition larger than .22 caliber rimfire only during the quota hunts for deer. We prohibit use of buckshot when hunting.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (t)(1)(i) and (ii) of this section apply.

(ii) We allow anglers to enter the refuge no earlier than 4 a.m., and they must depart no later than 2 hours after legal sunset.

(iii) We prohibit the taking of turtle (see § 27.21 of this chapter).

(iv) We prohibit fish cleaning within 150 feet (45 m) of parking areas, maintained roads, and trails.

(u) *Upper Ouachita National Wildlife Refuge—(1) Migratory game bird hunting.* We allow hunting of duck, goose, coot, dove, rail, gallinule, snipe, and woodcock on designated areas of the refuge subject to the following conditions:

(i) You must carry a signed refuge public use brochure and must carry and fill out daily a Visitor Check-In Permit and Report (FWS Form 3–2405).

(ii) Hunters may only hunt during designated refuge seasons as listed in the signed refuge public use brochure.

(iii) We allow waterfowl hunting until 12 p.m. (noon) during the State season. Waterfowl hunters must exit the refuge no later than 1:30 p.m.

(iv) Hunters may enter the refuge no earlier than 4 a.m.

(v) We prohibit hunting within 100 feet (30 meters (m)) of the maintained rights-of-way of roads and from or

across all-terrain vehicle (ATV) trails. We prohibit hunting within 50 feet (15 meters (m)) of, or trespassing on, aboveground oil, gas, or electrical transmission facilities.

(vi) When hunting migratory game birds, you may only use dogs to locate, point, and retrieve.

(vii) We allow ATVs only on trails designated for their use and marked by signs (see § 27.31 of this chapter). ATV trails are closed March 1 through August 31.

(viii) We allow the incidental take of coyote, beaver, and feral hog during any refuge hunt with the weapons legal for that hunt, subject to applicable State seasons and regulations.

(2) *Upland game hunting.* We allow hunting of quail, squirrel, rabbit, raccoon, and opossum, and the incidental take of coyote and beaver, on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (u)(1)(i), (ii), (iv), (v), (vii), and (viii) of this section apply.

(ii) You must exit no later than 2 hours after legal shooting hours, unless participating in authorized hunting after legal sunset.

(iii) We allow the nighttime hunting of raccoon and opossum from December 1 to January 31 with the aid of dogs. We allow hunting of raccoon and opossum during the daylight hours of rabbit and squirrel season.

(3) *Big game hunting.* We allow hunting of white-tailed deer and turkey, and the incidental take of feral hog, on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (u)(1)(i), (ii), (iv), (v), (vii), and (viii), and (u)(2)(ii) of this section apply.

(ii) Deer hunters must wear hunter orange as governed by State deer hunting regulations in wildlife management areas.

(iii) We prohibit hunters from placing stands or hunting from stands on pine trees with white-painted bands and/or rings.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) We prohibit leaving boats and other personal property on the refuge overnight (see § 27.93 of this chapter).

(ii) You must tend trotlines daily. You must attach ends of trotlines by a length of cotton line that extends into the water.

(iii) Recreational fishing using commercial gear (slat traps, etc.) requires a special refuge permit (Special Use Permit (FWS Form 3–1383–G)), which is available at the refuge office.

You must possess and carry the special refuge permit while fishing using commercial gear.

(iv) We prohibit the taking of turtle (see § 27.21 of this chapter).

\* \* \* \* \*

■ 13. Amend § 32.38 by:

■ a. Revising paragraphs (a) and (b);

■ b. Redesignating paragraph (e) as paragraph (g) and paragraph (c) as paragraph (e);

■ c. Adding new paragraph (c);

■ d. Revising paragraph (d) and newly redesignated paragraphs (e)(2)(i) and (e)(3)(i);

■ e. Adding paragraph (f).

The additions and revisions read as follows:

**§ 32.38 Maine.**

\* \* \* \* \*

(a) *Franklin Island National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of waterfowl on designated areas of the refuge subject to the following conditions:

(i) We allow the use of dogs consistent with State regulations.

(ii) We allow temporary or portable blinds. We require hunters to remove all portable or temporary blinds and decoys from the refuge following each day's hunt (see § 27.93 of this chapter).

(2)–(4) [Reserved]

(b) *Moosehorn National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of duck, goose, American woodcock, and snipe on designated areas of the refuge subject to the following conditions:

(i) We allow the use of dogs consistent with State regulations.

(ii) We allow hunters to enter the refuge 1 hour before legal shooting hours, and they must exit the refuge by 1 hour past legal shooting hours.

(iii) We only allow portable or temporary blinds and decoys that must be removed from the refuge following each day's hunt (see § 27.93 of this chapter).

(iv) Hunters must retrieve all species harvested on the refuge.

(2) *Upland game hunting.* We allow hunting of bobcat, eastern coyote, ruffed grouse, snowshoe hare, red fox, gray and red squirrel, raccoon, skunk, porcupine, and woodchuck on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (b)(1)(i), (ii) (except for hunters pursuing raccoon and coyote at night), (iii), and (iv) of this section apply.

(ii) We allow hunting for eastern coyote, red squirrel, and woodchuck only from October 1 to March 31.

(3) *Big game hunting.* We allow hunting of black bear, moose, and white-tailed deer on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (b)(1)(i), (ii), and (iv) of this section apply.

(ii) We allow tree stands, blinds, and ladders to be set up on the opening day of the archery deer season. Hunters must clearly label tree stands, blinds, or ladders left on the refuge overnight with your State hunting license number and last name. Hunters must remove tree stand(s), blind(s), and/or ladder(s) from the refuge on the last day of the muzzleloader deer season (see § 27.93 of this chapter).

(iii) You may hunt black bear, eastern coyote, and white-tailed deer during the State archery and firearms deer seasons on the Baring Division east of State Route 191.

(iv) We prohibit use of firearms to hunt bear during the archery deer season on the Baring Division east of Route 191. We prohibit the use of firearms, other than a muzzleloader, to hunt coyote during the deer muzzleloader season on the Baring Division east of Route 191.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) We only allow fishing from ½ hour before legal sunrise to ½ hour after legal sunset.

(ii) We prohibit trapping fish for use as bait.

(c) *Petit Manan National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of duck, goose, seaduck, brant, woodcock, rail, and snipe on designated areas of the refuge subject to the following conditions:

(i) We allow the use of dogs consistent with State regulations.

(ii) We allow temporary or portable blinds. We require hunters to remove all portable or temporary blinds and decoys from the refuge following each day's hunt (see § 27.93 of this chapter).

(2) *Upland game hunting.* We allow hunting of ruffed grouse, gray squirrel, red squirrel, skunk, snowshoe hare, fox, coyote, porcupine woodchuck, bobcat, and raccoon on designated areas of the refuge subject to the following conditions:

(i) We prohibit the use of dogs for pursuing game.

(ii) We allow hunting for coyotes, red squirrel, porcupine, and woodchuck from November 1 to March 31.

(iii) Hunters must retrieve all species harvested on the refuge.



(iv) We prohibit night hunting from 1/2 hour after legal sunset until 1/2 hour before legal sunrise the following day.

(3) *Big game hunting.* We allow hunting of white-tailed deer and black bear on designated areas of the refuge subject to the following conditions:

(i) Petit Manan Point is open only during the muzzleloader deer season.

(ii) We allow black bear hunting during the firearm season for white-tailed deer.

(iii) We allow hunters to enter the refuge 1 hour before legal sunrise, and they must exit the refuge no later than 1 hour after legal sunset.

(iv) We prohibit the use of dogs when hunting black bear.

(v) We require hunters to remove all tree stands, blinds, and ladders from the refuge on the last day of muzzleloader deer season (see § 27.93 of this chapter).

(4) [Reserved]

(d) *Pond Island National Wildlife Refuge—(1) Migratory game bird hunting.* We allow hunting of waterfowl on designated areas of the refuge subject to the following conditions:

(i) We allow the use of dogs consistent with State regulations.

(ii) We allow temporary or portable blinds. We require hunters to remove all portable or temporary blinds and decoys from the refuge following each day's hunt (see § 27.93 of this chapter).

(2)–(4) [Reserved]

(e) \* \* \*

(2) \* \* \*

(i) The conditions set forth at paragraphs (e)(1)(i) and (iii) of this section apply.

\* \* \* \* \*

(3) \* \* \*

(i) The conditions as set forth at paragraphs (e)(1)(i) and (iv) of this section apply.

\* \* \* \* \*

(f) *Sunkhaze Meadows National Wildlife Refuge—(1) Migratory game bird hunting.* We allow hunting of duck, goose, rail, American woodcock, and Wilson's snipe on designated areas of the refuge subject to the following conditions:

(i) We allow the use of dogs consistent with State regulations.

(ii) The hunter must retrieve all species harvested on the refuge.

(iii) We only allow portable or temporary blinds and decoys that must be removed from the refuge following each day's hunt (see § 27.93 of this chapter).

(iv) We allow hunters to enter the refuge 1 hour before legal shooting hours, and they must exit the refuge no later than 1 hour after legal shooting hours.

(2) *Upland game hunting.* We allow hunting of bobcat, coyote, ruffed grouse, hare, red fox, gray squirrel, red squirrel, raccoon, skunk, and woodchuck on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (f)(1)(i) through (iv) (except for hunters pursuing raccoon or coyote at night) of this section apply.

(ii) We allow hunting for eastern coyote, red squirrel, and woodchuck only from October 1 to March 31.

(3) *Big game hunting.* We allow hunting of black bear, moose, wild turkey, and white-tailed deer on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (f)(1)(i), (ii), and (iv) of this section apply.

(ii) We allow tree stands, blinds, and ladders to be set up on the opening day of the archery deer season. Hunters must clearly label tree stands, blinds, or ladders left on the refuge overnight with your State hunting license number and last name. Hunters must remove tree stand(s), blind(s), and/or ladder(s) from the refuge on the last day of the muzzleloader deer season (see § 27.93 of this chapter).

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following condition: We prohibit trapping fish for use as bait.

\* \* \* \* \*

■ 14. Amend § 32.41 by revising paragraph (b) to read as follows:

**§ 32.41 Michigan.**

\* \* \* \* \*

(b) *Harbor Island National Wildlife Refuge—(1) Migratory game bird hunting.* We allow hunting of migratory game birds on designated areas of the refuge subject to the following conditions:

(i) Hunters may enter the refuge no earlier than 1 hour before legal sunrise and must leave the refuge no later than 1 hour after legal sunset.

(ii) You must remove boats, blinds, blind materials, stands, decoys, and other hunting equipment from the refuge at the end of each day (see §§ 27.93 and 27.94 of this chapter).

(iii) We allow the use of dogs while hunting in accordance with Michigan State regulations, provided the dog is under the immediate control of the hunter at all times.

(2) *Upland game hunting.* We allow upland game hunting on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (b)(1)(i) through (iii) of this section apply.

(ii) For hunting, you may possess only approved nontoxic shot shells while in the field, including shot shells used for hunting wild turkey (see § 32.2(k)).

(3) *Big game hunting.* We allow hunting of big game subject to the following conditions:

(i) The condition set forth at paragraph (b)(1)(i) of this section applies.

(ii) We prohibit dogs for big game hunting.

(iii) Deer hunters may place one portable stand or blind on the refuge for use while deer hunting, but only during the open deer season. The stand must be clearly labeled with the hunter's Michigan license/sportsmen's identification number. The stand must be removed by the end of the season (see §§ 27.93 and 27.94 of this chapter).

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following condition: We prohibit the taking of any mussel (clam), crayfish, leech, frog, toad, salamander, snake, lizard, turtle, and other non-fish species by any method on the refuge (see § 27.21 of this chapter).

\* \* \* \* \*

■ 15. Amend § 32.42 by revising paragraphs (p)(1) introductory text, (p)(1)(v), and (p)(2)(ii) to read as follows:

**§ 32.42 Minnesota.**

\* \* \* \* \*

(p) \* \* \*

(1) *Migratory game bird hunting.* We allow hunting of goose, duck, merganser, coot, Sora/Virginia rail, woodcock, snipe, common moorhen/gallinule, mourning dove, and American crow on designated areas of the refuge subject to the following conditions:

\* \* \* \* \*

(v) You may only hunt American crow from September 1 through the end of February within the migratory bird hunting area. We prohibit hunting from March 1 through August 31.

\* \* \* \* \*

(2) \* \* \*

(ii) We allow spring turkey hunting for youth hunters and persons with disabilities, and fall turkey hunting for all hunters, on designated areas of the refuge.

\* \* \* \* \*

■ 16. Amend § 32.43 by:

■ a. Revising paragraphs (b)(1)(iv), (b)(3)(i), (c)(1)(iv), and (c)(2)(ii);

■ b. Removing paragraph (c)(2)(iii);

■ c. Revising paragraph (c)(3)(i);

■ d. Removing paragraph (c)(3)(ii);

■ e. Redesignating paragraphs (c)(3)(iii) through (vii) as paragraphs (c)(3)(ii) through (vi); and



■ f. Revising paragraphs (d), (e)(1)(iii), (e)(3)(iv), (f)(2)(iii), (g)(1)(iii), (h)(1)(iii), (h)(3)(iv), (i)(1)(iii), (i)(3)(iv), (j), (l)(1)(iv), (l)(2)(i), (l)(3)(i), (m)(1)(iii), and (m)(3)(iv).

The revisions read as follows:

**§ 32.43 Mississippi.**

\* \* \* \* \*

(b) \* \* \*  
(1) \* \* \*

(iv) Each hunter must obtain a daily Harvest Report (FWS Form 3–2542). You must display the card in plain view on the dashboard of your vehicle so that the State-issued license number is readable. Prior to leaving the refuge, you must complete the reverse side of the card and deposit it at one of the refuge information stations. Include all game harvested, and if you harvest no game, report “0.” We prohibit hunters possessing more than one Harvest Report at a time.

\* \* \* \* \*

(3) \* \* \*

(i) The conditions set forth at paragraphs (b)(1)(i), (ii), (iv), and (vi) of this section apply.

\* \* \* \* \*

(c) \* \* \*  
(1) \* \* \*

(iv) Each hunter must obtain a daily Harvest Report (FWS Form 3–2542). You must display the card in plain view on the dashboard of your vehicle so that the State-issued license number is readable. Prior to leaving the refuge, you must complete the card and deposit it at one of the refuge information stations. Include all game harvested, and if you harvest no game, report “0.” We prohibit hunters possessing more than one Harvest Report at a time.

\* \* \* \* \*

(2) \* \* \*

(ii) The conditions set forth at paragraphs (c)(1)(i), (ii), (iv), (v), and (ix) of this section apply.

(3) \* \* \*

(i) The conditions set forth at paragraphs (c)(1)(i), (ii), (iv), (v), and (ix) of this section apply.

\* \* \* \* \*

(d) *Grand Bay National Wildlife Refuge—(1) Migratory game bird hunting.* We allow hunting of goose, duck, coot, and dove (mourning and white-winged) on designated areas of the refuge subject to the following conditions:

(i) Each hunter must possess and carry a signed copy of the refuge brochure while participating in refuge hunts.

(ii) Hunters must remove all decoys, blind material, and harvested waterfowl from the refuge at the end of each day’s hunt (see § 27.93 of this chapter).

(iii) You must only use portable or temporary blinds.

(iv) We only allow the use of dogs when waterfowl hunting. We require all dogs to wear a collar displaying the owner’s contact information.

(v) We allow incidental take of coyote and nutria during any refuge hunt with the weapons legal for that hunt, subject to applicable State seasons and regulations.

(2) *Upland game hunting.* We allow hunting of squirrel (gray and fox) and rabbit (cottontail and swamp), and incidental take of coyote and nutria, on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (d)(1)(i) and (v) of this section apply.

(ii) We only allow .22 caliber rimfire rifles.

(3) *Big game hunting.* We allow hunting of white-tailed deer, and incidental take of feral hog, on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (d)(1)(i) and (v) of this section apply.

(ii) We only allow hunting with bow and arrow. We prohibit firearms.

(iii) We allow portable and climbing tree stands. Hunters must remove tree stands from the refuge at the end of each day’s hunt (see § 27.93 of this chapter).

(iv) We prohibit organized deer drives. We define a “deer drive” as an organized or planned effort to pursue, drive, chase, or otherwise frighten or cause deer to move in the direction of any person(s) who is part of the organized or planned hunt and known to be waiting for the deer.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) Anglers may enter the refuge no earlier than 30 minutes prior to sunrise and must leave the refuge no later than 30 minutes after legal sunset each day.

(ii) We prohibit fishing from legal sunset to legal sunrise.

(e) \* \* \*

(1) \* \* \*

(iii) Before hunting or fishing, all participants must display their Daily Visitor Information/Harvest Report Card (Harvest Report, FWS Form 3–2542) in plain view in their vehicle so that the State-issued license number is readable. You must return all cards upon completion of the activity and before leaving the refuge.

\* \* \* \* \*

(3) \* \* \*

(iv) The refuge brochure provides deer check station locations and

requirements. Prior to leaving the refuge, you must check all harvested deer at the nearest self-service check station (Harvest Report, FWS Form 3–2542) following the posted instructions.

\* \* \* \* \*

(f) \* \* \*

(2) \* \* \*

(iii) Before hunting or fishing, all participants must display their Daily Visitor Information/Harvest Report Card (Harvest Report, FWS Form 3–2542) in plain view in their vehicle so that the required information is readable. You must return all cards upon completion of the activity and before leaving the refuge.

\* \* \* \* \*

(g) \* \* \*

(1) \* \* \*

(iii) Before hunting or fishing, all participants must display their Daily Visitor Information/Harvest Report Card (Harvest Report, FWS Form 3–2542) in plain view in their vehicle so that the required information is readable. You must return all cards upon completion of the activity and before leaving the refuge.

\* \* \* \* \*

(h) \* \* \*

(1) \* \* \*

(iii) Before hunting or fishing, all participants must display their Daily Visitor Information/Harvest Report Card (Harvest Report, FWS Form 3–2542) in plain view in their vehicle so that the required information is readable. You must return all cards upon completion of the activity and before leaving the refuge.

\* \* \* \* \*

(3) \* \* \*

(iv) The refuge brochure provides deer check station locations and requirements. Prior to leaving the refuge, you must check all harvested deer at the nearest self-service check station (Harvest Report, FWS Form 3–2542) following the posted instructions.

\* \* \* \* \*

(i) \* \* \*

(1) \* \* \*

(iii) Before hunting or fishing, all participants must display their Daily Visitor Information/Harvest Report Card (Harvest Report, FWS Form 3–2542) in plain view in their vehicle so that the required information is readable. You must return all cards upon completion of the activity and before leaving the refuge.

\* \* \* \* \*

(3) \* \* \*

(iv) The refuge brochure provides deer check station locations and requirements. Prior to leaving the

refuge, you must check all harvested deer at the nearest self-service check station (Harvest Report, FWS Form 3–2542) following the posted instructions.

\* \* \* \* \*

(j) *Sam D. Hamilton Noxubee National Wildlife Refuge*—(1) *Migratory game bird hunting*. We allow hunting of duck, light and dark goose, merganser, woodcock, crow, gallinule (purple and common), snipe, and coot on designated areas of the refuge subject to the following conditions:

(i) Hunters and anglers must purchase a North Mississippi Refuge Complex Hunting/Fishing Permit (#606), available from the Mississippi Department of Wildlife, Fisheries, and Parks (MDWFP).

(ii) Youth hunters age 15 and younger and hunters age 65 and older are not required to obtain a North Mississippi Refuge Complex Hunting/Fishing Permit (#606).

(iii) Hunters must remove all decoys, blind material, and harvested game from the refuge by 1 p.m. each day (see §§ 27.93 and 27.94 of this chapter).

(iv) Hunters may enter the refuge at 4 a.m. and must exit the refuge no later than 2 hours after legal sunset, except during raccoon hunts. Waterfowl hunters must exit the refuge no later than 1 p.m.

(v) Each hunter must obtain a daily Harvest Report (FWS Form 3–2542). Hunters must display the card in plain view on the dashboard of the vehicle. Prior to leaving the refuge, hunters must complete the card and deposit it at one of the refuge information stations. Hunters must include all game harvested and if you harvest no game, report “0”. We prohibit hunters possessing more than one Harvest Report at a time.

(vi) We limit waterfowl hunters to 25 shotshells per person.

(vii) Hunters must remove all personal property at the end of each day’s hunt from the Noxubee Wilderness Area (see §§ 27.93 and 27.94 of this chapter). Outside the Noxubee Wilderness Area, hunters may leave tree stands labeled with the hunter’s State hunting license number used for deer hunting.

(viii) We allow hunting of waterfowl (duck, light and dark goose, merganser, coot, and gallinule) during State seasons, including the State Light Goose Conservation Order, only on Wednesday and Saturdays ending at 12 p.m.

(ix) We allow the use of dogs for retrieval of migratory and upland game only.

(x) We allow incidental take of coyote, beaver, nutria, skunk, fox, and feral hog

during any refuge hunt with the weapons legal for that hunt, subject to applicable State seasons and regulations.

(2) *Upland game hunting*. We allow hunting of squirrel, rabbit, quail, opossum, and raccoon, and incidental take of coyote, fox, skunk, beaver, and nutria, on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (j)(1)(i), (ii), (iv), (v), (vii), (ix), and (x) of this section apply.

(ii) We allow raccoon and opossum hunting between the hours of legal sunset and legal sunrise.

(3) *Big game hunting*. We allow hunting of white-tailed deer turkey, and incidental take of feral hog, on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (j)(1)(i), (ii), (iv), (v), (vii), and (x) of this section apply.

(ii) We prohibit the use of buckshot on the refuge.

(iii) We prohibit organized deer drives. We define a “deer drive” as an organized or planned effort to pursue, drive, chase, or otherwise frighten or cause deer to move in the direction of any person(s) who is part of the organized or planned hunt and known to be waiting for the deer.

(iv) You may place one portable tree stand or ground blind for deer hunting on the refuge only during the open deer season. You must clearly label the stand or blind with your State hunting license number.

(v) While climbing a tree, installing a tree stand that uses climbing aids, or hunting from a tree stand on the refuge, you must use a fall-arrest system (full body harness) that is manufactured to the Treestand Manufacturer’s Association standards.

(vi) Hunters may place deer stands on the refuge 7 days prior to the hunt, and hunters must remove deer stands no more than 7 days after the refuge’s deer season closes (see § 27.93 of this chapter).

(4) *Sport fishing*. We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) The general sport fishing, boating, and bow fishing season extends from March 1 through October 31, except that we open the shoreline of Bluff Lake from the Bluff Lake Boardwalk to the visitor center, the entire Noxubee River, and all borrow pit areas along Highway 25 to fishing year-round.

(ii) The condition set forth at paragraph (j)(1)(i) of this section applies.

(iii) Anglers must keep boat travel at idle speed, and they must not create a wake when moving.

(iv) When left unattended, anglers must tag fishing gear with their State fishing license number. Anglers must check all gear within 24 hours each day or remove these devices (see § 27.93 of this chapter).

(v) We allow trotlining on the refuge subject to the following conditions:

(A) Anglers must label each end of the trotline floats with the owner’s State fishing license number.

(B) We limit trotlines to one line per person, and we allow no more than two trotlines per boat.

(C) Anglers must tend all trotlines every 24 hours, and must remove them when not in use (see § 27.93 of this chapter).

(D) Trotlines must possess at least 6-inch (15.2-centimeter) cotton string leads.

(vi) We allow jug fishing on the refuge subject to the following conditions:

(A) Anglers must label each jug with their State fishing license number.

(B) Anglers must check all jugs every 24 hours, and must remove them when not in use (see § 27.93 of this chapter).

(vii) We prohibit bow fishing after legal sunset.

(viii) We prohibit fishing tournaments on all refuge waters.

(ix) We prohibit the taking of frogs, turtles, and crawfish (see § 27.21 of this chapter).

(x) We prohibit using nets of any type to capture free-roaming fish or wildlife. You may use a fishing net to recover fish caught by hook and line.

(xi) Outside the Noxubee Wilderness Area, anglers may leave trotlines and jugs used for fishing overnight if they are labeled with the angler’s State fishing license number.

\* \* \* \* \*

(1) \* \* \*

(1) \* \* \*

(iv) Each hunter must obtain a daily Harvest Report (FWS Form 3–2542). You must display the card in plain view on the dashboard of your vehicle so that the State-issued license number is readable. Prior to leaving the refuge, you must complete the card and deposit it at one of the refuge information stations. Include all game harvested, and if you harvest no game, report “0.” We prohibit hunters possessing more than one Harvest Report at a time.

\* \* \* \* \*

(2) \* \* \*

(i) The conditions set forth at paragraphs (l)(1)(i), (ii), (iv), (v), and (ix) of this section apply.

\* \* \* \* \*

(3) \* \* \*

(i) The conditions set forth at paragraphs (l)(1)(i), (ii), and (iv) of this section apply.

(m) \* \* \*

(1) \* \* \*

(iii) Before hunting or fishing, all participants must display their Daily Visitor Information/Harvest Report Card (Harvest Report, FWS Form 3-2542) in plain view in their vehicle so that the required information is readable. You must return all cards upon completion of the activity and before leaving the refuge.

(3) \* \* \*

(iv) The refuge brochure provides deer check station locations and requirements. Prior to leaving the refuge, you must check all harvested deer at the nearest self-service check station (Harvest Report, FWS Form 3-2542) following the posted instructions.

■ 17. Amend § 32.44 by revising paragraphs (b)(3)(i), (f)(2)(iii), and (f)(3)(ii) to read as follows:

**§ 32.44 Missouri.**

(b) \* \* \*

(3) \* \* \*

(i) You must register at the hunter sign-in/out station and record the sex and age of deer harvested on the Harvest Report (FWS Form 3-2542).

(f) \* \* \*

(2) \* \* \*

(iii) We require that all hunters complete a Harvest Report (FWS Form 3-2542) located at the exit kiosks prior to exiting the refuge.

(3) \* \* \*

(ii) We require that all hunters complete the Harvest Report (FWS Form 3-2542) located at the exit kiosks prior to exiting the refuge.

■ 18. Amend § 32.45 by:

■ a. Revising paragraph (f)(3) introductory text;

■ b. Adding paragraph (f)(3)(iv);

■ c. Removing paragraph (q);

■ d. Redesignating paragraphs (r) through (y) as paragraphs (q) through (x);

■ e. Revising newly redesignated paragraph (w)(3) introductory text; and

■ f. Adding paragraph (w)(3)(iv).

The revisions and additions read as follows:

**§ 32.45 Montana.**

(f) \* \* \*

(3) *Big game hunting.* We allow hunting of elk, pronghorn, white-tailed deer, mule deer, and mountain lion on designated areas of the refuge subject to the following conditions:

(iv) Mountain lion hunting will follow State-established dates for the archery-only and fall seasons.

(w) \* \* \*

(3) *Big game hunting.* We allow hunting of elk, pronghorn, white-tailed deer, mule deer, and mountain lion on designated areas of the refuge subject to the following conditions:

(iv) Mountain lion hunting will follow State-established dates for the archery-only and fall seasons.

■ 19. Amend § 32.47 by adding paragraphs (b)(1) and (2) to read as follows:

**§ 32.47 Nevada.**

(b) \* \* \*

(1) *Migratory game bird hunting.* We allow hunting of dove on designated areas of the refuge subject to the following conditions:

(i) We allow hunting on designated days.

(ii) You may not possess more than 25 shot shells while in the field once you have left your vehicle.

(2) *Upland game hunting.* We allow hunting of chukar and quail on designated areas of the refuge subject to the following condition: The conditions set forth at paragraphs (b)(1)(i) and (ii) of this section apply.

■ 20. Amend § 32.48 by revising paragraph (b) to read as follows:

**§ 32.48 New Hampshire.**

(b) *Silvio O. Conte National Fish and Wildlife Refuge—(1) Migratory game bird hunting.* We allow hunting of duck, goose, coot, common snipe, and American woodcock on designated areas of the refuge subject to the following condition: We allow the use of dogs consistent with State regulations, except hunters using more than two dogs must possess a Special Use Permit (FWS Form 3-1383-G) issued by the refuge manager.

(2) *Upland game hunting.* We allow hunting of coyote, fox, raccoon, woodchuck, red squirrel, eastern gray squirrel, porcupine, skunk, crow, snowshoe hare, muskrat, opossum, fisher, mink, weasel, ring-necked

pheasant, and ruffed grouse on designated areas of the refuge subject to the following conditions:

(i) We allow the use of dogs consistent with State regulations, except hunters using more than two dogs must possess a Special Use Permit (FWS Form 3-1383-G) issued by the refuge manager.

(ii) We allow the training of dogs as governed by State regulations during daylight hours beginning August 1, if the trainer possesses a Special Use Permit (FWS Form 3-1383-G) issued by the refuge manager.

(3) *Big game hunting.* We allow hunting of white-tailed deer, moose, black bear, and wild turkey on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (b)(2)(i) and (ii) of this section apply.

(ii) We allow tree stands and blinds that are clearly marked with the owner's State hunting license number.

(iii) You must remove your tree stand(s) and blind(s) no later than 72 hours after the close of the season (see § 27.93 of this chapter).

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge.

■ 21. Amend § 32.49 by:

■ a. Revising paragraphs (a), (c), (d), and (e)(2)(ii);

■ b. Adding paragraph (e)(3)(iii); and

■ c. Revising paragraphs (e)(4) introductory text and (e)(4)(i) and (iv).

The revisions and addition read as follows:

**§ 32.49 New Jersey.**

(a) *Cape May National Wildlife Refuge—(1) Migratory game bird hunting.* We allow hunting of light

goose, dark goose, duck, sea duck, gallinule, coot, rail, snipe, crow, and woodcock on designated areas of the refuge subject to the following conditions:

(i) We allow the use of dogs consistent with State regulations.

(ii) The snipe and crow season on the refuge begins with the start of the State woodcock south zone season and continues through the end of the State snipe and crow seasons.

(iii) We prohibit falconry.

(iv) We prohibit night hunting from ½ hour after legal sunset until ½ hour before legal sunrise the following day.

(2) *Upland game hunting.* We allow hunting of coyote, fox, woodchuck, rabbit, squirrel, and pheasant on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (a)(1)(i), (iii), and (iv) of this section apply.

(ii) We allow woodchuck hunting from the beginning of the State woodcock south zone season until the end of the State rabbit season.

(iii) Coyote, fox, rabbit, squirrel, and pheasant seasons open at the beginning of the State woodcock south zone season and close in accordance with the State seasons for each species.

(3) *Big game hunting.* We allow hunting of white-tailed deer and turkey on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (a)(1)(i), (iii), and (iv) of this section apply.

(ii) Tree stands must be marked with the owner's New Jersey conservation identification number.

(iii) We allow turkey hunting during the State fall season.

(iv) We require the use of nontoxic ammunition for turkey hunting.

(4) *Sport fishing.* We allow saltwater sport fishing on designated areas of the refuge subject to the following conditions:

(i) We allow fishing from 1 hour before legal sunrise to 1 hour after legal sunset.

(ii) We close the Atlantic Ocean portion of the Two Mile Beach Unit annually to all access, including fishing, between April 1 and September 30.

(iii) We prohibit fishing for, or possession of, crab or shellfish on refuge lands.

\* \* \* \* \*

(c) *Great Swamp National Wildlife Refuge—(1) Migratory game bird hunting.* We allow hunting of Canada goose on designated areas of the refuge subject to the following conditions:

(i) We allow the use of dogs consistent with State regulations.

(ii) Hunters must obtain a refuge hunt permit (FWS Form 3–2439), and possess the signed refuge permit at all times while hunting or scouting on the refuge.

(2) *Upland game hunting.* We allow hunting of coyote and fox on designated areas of the refuge subject to the following condition: We only allow the incidental take of coyote and fox during the refuge deer and turkey hunts.

(3) *Big game hunting.* We allow hunting of white-tailed deer and wild turkey on designated areas of the refuge subject to the following conditions:

(i) We require the use of nontoxic shot while hunting wild turkey.

(ii) We allow hunters to use sleds to retrieve deer in the Wilderness Area east of Long Hill/New Vernon Road. We prohibit wheeled game carriers in the Wilderness Area.

(iii) We prohibit organized deer drives. We define a “deer drive” as an organized or planned effort to pursue, drive, chase, or otherwise frighten or cause deer to move in the direction of any person(s) who is part of the organized or planned hunt and known to be waiting for the deer.

(4) [Reserved]

(d) *Supawna Meadows National Wildlife Refuge—(1) Migratory game bird hunting.* We allow hunting of light goose, dark goose, duck, sea duck, gallinule, coot, crow, rail, and snipe on designated areas of the refuge subject to the following conditions:

(i) We allow the use of dogs consistent with State regulations.

(ii) We prohibit falconry.

(iii) We prohibit night hunting from 1/2 hour after legal sunset until 1/2 hour before legal sunrise the following day.

(2) *Upland game hunting.* We allow hunting of coyote, fox, woodchuck, rabbit, squirrel, and pheasant on designated areas of the refuge subject to the following conditions:

(i) We allow woodchuck hunting only during the State coyote and fox seasons.

(ii) The conditions set forth at paragraphs (d)(1)(ii) and (iii) of this section apply.

(3) *Big game hunting.* We allow hunting of white-tailed deer and turkey on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (d)(1)(i) through (iii) of this section apply.

(ii) We require the use of nontoxic ammunition for turkey hunting.

(iii) We allow archery hunting for white-tailed deer during all six State Deer Management Zone 63 seasons and on youth hunting days.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) We prohibit the taking of frogs and turtles from all nontidal waters and refuge lands (see § 27.21 of this chapter).

(ii) We allow fishing in designated nontidal waters from 1 hour before legal sunrise to 1 hour after legal sunset.

(iii) We prohibit bow fishing in nontidal waters.

(iv) We prohibit fishing for, or possession of, crab and shellfish on refuge lands.

(e) \* \* \*

(2) \* \* \*

(ii) We prohibit night hunting from 1/2 hour after legal sunset until 1/2 hour before legal sunrise the following day.

(3) \* \* \*

(iii) We require the use of nontoxic ammunition for turkey hunting.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) At Owens Station Crossing and Hidden Ponds fishing areas, we allow catch-and-release fishing only.

\* \* \* \* \*

(iv) We prohibit minnow and bait trapping.

■ 22. Amend § 32.50 by:

■ a. Redesignating paragraph (b)(3)(iii) as paragraph (b)(3)(iv);

■ b. Adding new paragraphs (b)(3)(iii) and (v); and

■ c. Revising paragraphs (c) and (f)(1)(iv).

The additions and revisions read as follows:

§ 32.50 New Mexico.

\* \* \* \* \*

(b) \* \* \*

(3) \* \* \*

(iii) We allow hunting of bearded Rio Grande turkey on the Bajada Hunt Unit, East Hunt Unit, and West Hunt Unit during the general spring turkey season only, as defined by the State. You may take bearded Rio Grande turkey only with a method allowed within each refuge hunt unit.

\* \* \* \* \*

(v) In the Bajada Hunt Unit, we restrict the methods of take to bow and arrow, crossbow, and muzzleloader or muzzleloading shotguns only, as defined by the State. In the East Hunt Unit and West Hunt Unit, we allow any legal weapon during State big game hunting designated dates.

\* \* \* \* \*

(c) *Las Vegas National Wildlife Refuge—(1) Migratory game bird hunting.* We allow hunting of mourning and white-winged dove and goose on designated areas of the refuge subject to the following conditions:

(i) We allow the use of dogs when hunting.

(ii) Hunters must possess a permit (FWS Form 3–2439).

(iii) We allow the hunting of dove from September 1 to September 30.

(iv) We allow the hunting of goose on dates to be determined by refuge staff.

(v) Shooting hours for geese are from 1/2 hour before legal sunrise until 1 p.m. local time.

(vi) We assign an aggregate bag limit for geese.

(vii) We prohibit falconry on the refuge.

(2) *Upland game hunting.* We allow hunting of Eurasian collared-dove, desert cottontail, and Eastern cottontail on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (c)(1)(i), (ii), and (vii) of this section apply.

(ii) We allow the hunting of Eurasian collared-dove and cottontail rabbits from September 1 to September 30.

(iii) We allow only shotgun, muzzleloading shotgun firing shot, bow and arrow, and crossbow for hunting.

(3) *Big game hunting*. We allow youth elk hunts on designated areas of the refuge subject to the following conditions:

(i) Hunters must attend a refuge hunter orientation before hunting on the refuge.

(ii) Hunters may be accompanied by a maximum of two non-hunting guests.

(iii) Hunters are assigned a hunt unit.

(4) [Reserved]

\* \* \* \* \*

(f) \* \* \*

(1) \* \* \*

(iv) In Units A and B, the Cornerstone Marsh Unit and Pintail blind, we require a Mobility-Impaired Certification (per Mobility-Impaired Certification in the State hunting rules and information pamphlet).

\* \* \* \* \*

■ 23. Amend § 32.51 by:

- a. Revising paragraphs (c)(1)(ii)(E), (d), (i)(2) introductory text, and (i)(2)(ii);
- b. Adding paragraph (i)(3)(iii); and
- c. Revising paragraphs (i)(4)(i), (iii), and (iv).

The revisions and addition read as follows:

**§ 32.51 New York.**

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(ii) \* \* \*

(E) We allow hunting from legal starting time until 12 p.m. (noon). We require hunters to return a completed Harvest Report (FWS Form 3–2542) no later than 1 p.m. on the day of the hunt.

\* \* \* \* \*

(d) *Montezuma National Wildlife Refuge*—(1) *Migratory game bird hunting*. We allow hunting of waterfowl, Canada goose, snow goose, and gallinule on designated areas of the refuge subject to the following conditions:

(i) We allow the use of dogs consistent with State regulations.

(ii) For the regular waterfowl season and October through January season for Canada goose:

(A) We require daily refuge permits (FWS Form 3–2542) and reservations; we issue permits to hunters with a reservation for that hunt day. Permits may become available on a first-come/first-served, self-serve basis during New York State's second split, subject to hunting conditions and the refuge manager's discretion. We require you to

complete and return your permit by the end of the hunt day.

(B) We allow hunting only on Tuesdays, Thursdays, and Saturdays during the established refuge season set within the State western zone season, and during New York State's established special hunts, which can occur any day of the week as set by the State.

(C) All hunters with reservations and their hunting companions must check-in at the Route 89 Hunter Check Station area at least 1 hour before legal shooting time or forfeit their reservation.

(D) We allow motorless boats to hunt waterfowl. We limit hunters to one boat per reservation and one motor vehicle in the hunt area per reservation. Hunters may enter the refuge/Hunter Check Station area no earlier than 2 hours before legal sunrise.

(E) We prohibit shooting from within 500 feet (152 meters) of the Tschache Pool observation tower.

(F) We require proof of successful completion of the New York State waterfowl identification course, the Montezuma nonresident waterfowl identification course, or a suitable nonresident State waterfowl identification course. All hunters must show proof of successful course completion each time they hunt.

(G) You may hunt gallinule and Canada goose on refuge areas designated for the regular waterfowl season only during the regular waterfowl season.

(iii) For Canada goose in September and snow goose hunting:

(A) We allow hunting of Canada goose during the New York State September season and hunting of snow goose during portions of the New York State snow goose season and portions of the period covered by the Light Goose Conservation Order.

(B) You must possess a valid daily hunt permit (FWS Form 3–2542). We require you to complete and return the daily hunt permit card by the end of the hunt day.

(C) For snow goose hunting, hunters may enter the refuge/Hunter Check Station area no earlier than 4 hours before legal sunrise. For Canada goose hunting, hunters may enter the refuge/Hunter Check Station area no earlier than 2 hours before legal sunrise.

(2) *Upland game hunting*. We allow hunting of rabbit and squirrel on designated areas of the refuge subject to the following conditions:

(i) The condition set forth at paragraph (d)(1)(i) of this section applies.

(ii) You must possess a valid daily hunt permit (FWS Form 3–2542) and are required to complete and return the

daily hunt permit card by the end of each hunt day.

(iii) We allow upland game hunters to access the refuge from 2 hours before legal sunrise until 2 hours after legal sunset.

(iv) We require the use of approved nontoxic shot for upland game hunting (see § 32.2(k)).

(3) *Big game hunting*. We allow hunting of white-tailed deer and wild turkey on designated areas of the refuge subject to the following conditions:

(i) The condition set forth at paragraph (d)(1)(i) of this section applies.

(ii) You must possess a valid daily hunt permit (FWS Form 3–2542). We require you to complete and return the daily hunt permit card by the end of the hunt day.

(iii) We allow white-tailed deer and turkey hunters to access the refuge from 2 hours before legal sunrise until 2 hours after the end of legal shooting time.

(iv) We allow youth and special big game hunts during New York State's established youth and special big game hunts each year.

(4) *Sport fishing*. We allow access for fishing from designated areas of the refuge subject to the following condition: We prohibit the use of lead fishing tackle.

\* \* \* \* \*

(i) \* \* \*

(2) *Upland game hunting*. We allow hunting of rabbit/hare, gray/black/fox squirrel, pheasant, jackrabbit, chukar, woodchuck, bobwhite quail, ruffed grouse, crow, red/gray fox, coyote, bobcat, raccoon, skunk, mink, weasel, and opossum on designated areas of the refuge subject to the following conditions:

\* \* \* \* \*

(ii) We prohibit night hunting from 1/2 hour after legal sunset until 1/2 hour before legal sunrise the following day.

(3) \* \* \*

(iii) We require nontoxic ammunition while hunting turkey.

(4) \* \* \*

(i) At Owens Station Crossing and Hidden Ponds fishing areas, we allow catch-and-release fishing only.

\* \* \* \* \*

(iii) We prohibit the taking of amphibians and reptiles (see § 27.21 of this chapter).

(iv) We prohibit minnow and bait trapping.

\* \* \* \* \*

■ 24. Amend § 32.52 by:

- a. Revising paragraph (d);
- b. Adding paragraph (e)(1); and
- c. Revising paragraph (e)(3).

The revisions and addition read as follows:

§ 32.52 North Carolina.

\* \* \* \* \*

(d) Great Dismal Swamp National Wildlife Refuge. Refer to § 32.65(g) for regulations.

(e) \* \* \* (1) Migratory game bird hunting. We allow hunting of swan, light and dark goose, duck, merganser, coot, moorhen, and gallinule on designated areas of the refuge subject to the following conditions:

- (i) We require a North Carolina Waterfowl Hunt Permit or a signed refuge hunt brochure that must be carried while hunting on the refuge.
(ii) Hunters must hunt from their assigned blind location.
(iii) We allow hunting from 1/2 hour before legal sunrise to 4:20 p.m. (as governed by County regulations).
(iv) We allow hunters to access the refuge 1 1/2 hours before legal shooting time until 5:20 p.m.
(v) We allow incidental take of coyote and feral hog while hunting.

(3) Big game hunting. We allow hunting of deer, and incidental take of feral hog, on designated areas of the refuge subject to the following conditions:

- (i) We require a signed refuge hunt brochure that hunters must sign and carry while hunting on the refuge.
(ii) We allow the use of shotguns, muzzleloading rifles/shotguns, pistols, crossbows, and bows. We prohibit the use of all other rifles.
(iii) We allow access to hunting areas from 5 a.m. until 8 p.m.
(iv) We prohibit carrying a loaded firearm on or within 50 feet (15 meters) of gravel roads.
(v) The condition set forth at paragraph (e)(1)(v) of this section applies.

\* \* \* \* \*

■ 25. Amend § 32.53 by:

- a. Removing paragraph (e)(3)(i);
■ b. Redesignating paragraphs (e)(3)(ii) and (iii) as paragraphs (e)(3)(i) and (ii); and
■ c. Revising the heading of paragraph (k).

The revision reads as follows:

§ 32.53 North Dakota.

\* \* \* \* \*

(k) Canfield Lake National Wildlife Refuge.

\* \* \* \* \*

■ 26. Amend § 32.55 by:

- a. Revising paragraphs (a)(1)(i), (a)(3)(i), (b)(1)(iii), (b)(2)(iii), (b)(3)(vi), (d)(2)(i), and (f)(1)(i) and (ii);

- b. Removing paragraph (f)(1)(iv);
■ c. Redesignating paragraphs (f)(1)(v) through (vii) as paragraphs (f)(1)(iv) through (vi); and
■ d. Revising paragraphs (f)(2) introductory text, (f)(2)(i), (f)(3)(i) and (ii), (f)(4), (g)(1)(ii), (g)(4)(ii), (i)(1)(i), (j)(1)(i), and (j)(4).

The revisions read as follows:

§ 32.55 Oklahoma.

\* \* \* \* \*

- (a) \* \* \* (1) \* \* \* (i) You must possess and carry a signed refuge hunt brochure.
(3) \* \* \* (i) You must possess and carry a signed refuge hunt brochure for the archery deer hunt. Hunters must turn in a Harvest Report (FWS Form 3-2542) by December 31 annually. Failure to submit the report will render the hunter ineligible for the next year's limited season archery deer hunt.

\* \* \* \* \*

- (b) \* \* \* (1) \* \* \* (iii) You must possess and carry a signed refuge hunt brochure while hunting.
(2) \* \* \* (iii) You may take beaver, raccoon, and coyote as incidental take to any daytime established refuge hunt with legal weapons and a signed hunt brochure for the current hunt season.
(3) \* \* \* (vi) You may hunt feral hog during any established refuge hunting season. Signed refuge hunt brochure and legal weapons apply for the current hunting season.

\* \* \* \* \*

- (d) \* \* \* (2) \* \* \* (i) You must possess and carry a signed refuge hunt brochure.
(f) \* \* \* (1) \* \* \* (i) You must possess and carry a signed refuge hunt brochure.
(ii) We open the refuge to hunting only on Saturdays, Sundays, Mondays, and Tuesdays. We allow hunters to enter the Sandtown Bottom Unit or any portion of Sally Jones Lake beginning at 5 a.m., and hunters must leave the area by 1 hour after legal sunset.

\* \* \* \* \*

(2) Upland game hunting. We allow hunting of Eastern gray and fox squirrel and swamp and Eastern cottontail rabbit

on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (f)(1)(i) through (vi) of this section apply.

\* \* \* \* \*

(3) \* \* \* (i) The conditions set forth at paragraphs (f)(1)(i) through (iii) and (vi) of this section apply.

(ii) We require a limited hunt permit (State-issued) for controlled hunts for muzzleloader and archery deer, and for spring wild turkey hunts.

\* \* \* \* \*

(4) Sport fishing. We allow fishing and frogging on designated areas of the refuge subject to the following conditions:

(i) We prohibit fishing or frogging from September 1 through March 31 in the waterfowl sanctuary south of refuge headquarters, as designated by buoys and signs.

(ii) You must remove setlines (trotilines, throwlines, juglines, limblines, yo-yos) from the waterfowl sanctuary before September 1 (see § 27.93 of this chapter).

(iii) The conditions set forth at paragraphs (f)(1)(v) and (vii) of this section apply.

(iv) We prohibit the take of reptiles, amphibians (except bullfrogs), mollusks, and crayfish (see § 27.21 of this chapter).

(v) We prohibit the use of setlines in creeks and tributaries entering the Arkansas River or Canadian River on the refuge.

(g) \* \* \*

(1) \* \* \*

(ii) Hunters must possess and carry a signed hunt brochure.

\* \* \* \* \*

(4) \* \* \*

(ii) Anglers may use boats from March 1 through September 30 in designated waters unless otherwise specified on the fishing brochure.

\* \* \* \* \*

(i) \* \* \*

(1) \* \* \*

(i) We require hunters to carry a signed refuge hunt brochure while hunting duck, goose, merganser, and sandhill crane.

\* \* \* \* \*

(j) \* \* \*

(1) \* \* \*

(i) Hunters must possess a current signed refuge hunt brochure while hunting on the refuge.

\* \* \* \* \*

(4) Sport fishing. We allow fishing on designated areas of the refuge subject to the following conditions:

(i) You may take fish only with pole and line or rod and reel.

(ii) We prohibit taking of frogs and turtles (see § 27.21 of this chapter).

(iii) Anglers may use motorized boats on Elmer Thomas Lake; however, we enforce a no-wake rule on the lake.

(iv) Anglers may use hand-powered boats or boats 14 feet or less in length with an electric trolling motor only on Elmer Thomas, Jed Johnson, Rush, Quannah Parker, and French Lakes.

(v) We allow fishing after legal sunset on the refuge including by boat, but we prohibit all other boating after legal sunset.

(vi) We prohibit fishing from public roadways and bridges opened to motorized vehicles.

(vii) We allow wading when fishing, provided that wading anglers must use tube-type floaters, life jackets, or buoyant vests.

(viii) We close Kiowa Lake to fishing except for shoreline fishing associated with a U.S. Fish and Wildlife Service-sponsored aquatic education program.

■ 27. Amend § 32.56 by:

■ a. Revising paragraphs (k)(1) through (3), (q)(1)(xi), (t)(1) introductory text, and (t)(1)(viii);

■ b. Adding paragraph (u)(1); and

■ c. Revising paragraph (u)(3).

The revisions and addition read as follows:

§ 32.56 Oregon.

\* \* \* \* \*

(k) \* \* \*

(1) *Migratory game bird hunting.* We allow hunting of dove, goose, duck, merganser, coot, and snipe on designated areas of the refuge subject to the following conditions:

(i) We allow nonmotorized boats or boats equipped with only electric motors on the North and South Malheur Lake Hunt Units.

(ii) We allow only portable and temporary hunting blinds.

(iii) You must remove boats, decoys, blinds, materials, and all personal property at the end of each day's hunt (see §§ 27.93 and 27.94 of this chapter).

(iv) You may take Eurasian collared-dove only during the State mourning dove season.

(2) *Upland game hunting.* We allow hunting of pheasant, quail, partridge, chukar, rabbit, hare, and coyote on designated areas of the refuge.

(3) *Big game hunting.* We allow hunting of deer and pronghorn on designated areas of the refuge subject to the following conditions:

(i) We allow only short-range weapons (archery, shotgun, and muzzleloader) on the Buena Vista Unit.

(ii) Mule deer hunting in the Buena Vista Unit will close the Friday before

the opening day of the Oregon Statewide rooster pheasant season.

\* \* \* \* \*

(q) \* \* \*

(1) \* \* \*

(xi) Hunters must check-in and check-out with a refuge representative and submit a Harvest Report (FWS Form 3–2542) when checking out.

\* \* \* \* \*

(t) \* \* \* (1) *Migratory game bird hunting.* We allow hunting of duck and coot on designated areas of the refuge subject to the following conditions:

\* \* \* \* \*

(viii) Hunters must submit a Harvest Report (FWS Form 3–2542) at the end of each day's hunt.

\* \* \* \* \*

(u) \* \* \*

(1) *Migratory game bird hunting.* We allow hunting of duck, goose, and coot on designated areas of the refuge subject to the following conditions:

(i) We allow only portable and temporary hunting blinds.

(ii) You must remove all blinds, decoys, shotshell hulls, and other personal equipment and garbage from the refuge at the end of each day's hunt (see §§ 27.93 and 27.94 of this chapter).

(iii) Hunters may enter the refuge no earlier than 2 hours before legal shooting hours and must exit the refuge no later than 1 hour after legal shooting hours.

(iv) We allow the use of dogs when hunting.

\* \* \* \* \*

(3) *Big game hunting.* We allow deer and elk hunting on designated areas of the refuge subject to the following conditions:

(i) You may harvest only antlerless elk.

(ii) We require a refuge permit (FWS Form 3–2439) for hunting elk.

(iii) We prohibit hunting from any refuge structure, observation blind, or boardwalk.

(iv) We allow short-range weapons only. We allow archery hunting only on the William L. Finley and Snag Boat Bend Zone 2 hunt units.

(v) Hunters may enter the refuge no earlier than 1 hour before legal shooting hours and must exit the refuge no later than 1 hour after legal shooting hours.

\* \* \* \* \*

■ 28. Amend § 32.57 by revising paragraph (a)(2) to read as follows:

§ 32.57 Pennsylvania.

\* \* \* \* \*

(a) \* \* \*

(2) *Upland game hunting.* We allow hunting of squirrel, grouse, rabbit,

pheasant, quail, woodchuck, crow, fox, raccoon, opossum, skunk, weasel, coyote, chukar, and bobcat on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (a)(1)(i) and (iii) of this section apply.

(ii) We prohibit night hunting from ½ hour after legal sunset until ½ hour before legal sunrise the following day.

\* \* \* \* \*

■ 29. Amend § 32.59 by revising paragraphs (b)(3)(iii), (c)(1)(i), (ii) and (v), and (c)(3) to read as follows:

§ 32.59 South Carolina.

\* \* \* \* \*

(b) \* \* \*

(3) \* \* \*

(iii) Harvested deer, feral hog, or turkey must be checked at the designated check station prior to removal from the refuge. Hunters must complete the Harvest Report (FWS Form 3–2542).

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(i) We require each hunter to carry at all times while hunting a valid signed, current refuge hunting brochure.

(ii) Each youth hunter (age 15 and younger) must remain within sight and normal voice contact of an assistant, parent, or guardian age 21 or older. Youth hunters must have successfully completed a State-approved hunter education course.

\* \* \* \* \*

(v) We only allow the use of dogs when migratory game bird hunting.

\* \* \* \* \*

(3) *Big game hunting.* We allow hunting of white-tailed deer and turkey, and incidental take of feral hog, on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (c)(1)(i) and (ii) of this section apply.

(ii) Only youth hunters may hunt turkey on the refuge.

(iii) Except for the special quota permit hunts, we allow only archery or muzzleloader hunting for deer. During special quota permit hunts, we allow use of centerfire rifles or shotguns. We only allow shotguns for turkey hunts.

(iv) On hunt days, hunters and assistants, parents, or guardians may enter the refuge no earlier than 5 a.m. and must leave the refuge no later than 1 hour after legal sunset. We allow hunting from ½ hour before official sunrise until ½ hour after official sunset.

(v) We require all deer taken during any hunt to be checked at the

designated refuge check station before removal from the refuge. In addition, all deer and turkey must be tagged (State-issued).

(vi) The refuge daily bag limit is two antlerless deer and one antlered buck that must have at least three antler points on one side. We define a "point" as an antler projection of at least 1 inch (2.5 centimeters) or more in length. The youth turkey hunter bag limit is one male turkey.

(vii) We allow incidental take of feral hog during deer hunts only. There is no size or bag limit on hogs. We may offer special hog hunts during and after deer season to further control this invasive species. We prohibit removal of live hogs from the refuge.

(viii) You must hunt deer from an elevated deer stand. We prohibit shooting big game from a boat.

(ix) All permanently fixed ground blinds are for the mobility-impaired hunt only.

(x) We prohibit crossbows on the archery hunts. We only allow muzzleloading rifles using a single projectile on the muzzleloader hunts. We prohibit buckshot.

(xi) You may use flagging to mark the site of hunter entry from roads or trails and again at the stand site. You may use clothespins with reflective tape between these sites to mark the route to the stand. Hunters must label all such markers with their last name and State hunting license number.

(xii) We require hunters to wear an outer garment visible above the waist that contains a minimum of 500 square inches (3,226 square centimeters) of solid, florescent-orange material at all times during the muzzleloader and mobility-impaired hunts for deer.

(xiii) We prohibit organized deer drives. We define a "deer drive" as an organized or planned effort to pursue, drive, chase, or otherwise frighten or cause deer to move in the direction of any person(s) who is part of the organized or planned hunt and known to be waiting for the deer.

(xiv) We prohibit accessing hunt units by watercraft.

\* \* \* \* \*

■ 30. Amend § 32.60 by:

- a. Revising paragraph (b)(4)(i);
- b. Adding paragraph (b)(4)(iii); and
- c. Revising paragraph (h)(4).

The revisions and addition read as follows:

§ 32.60 South Dakota.

\* \* \* \* \*

(b) \* \* \*

(4) \* \* \*

(i) We prohibit the use or possession of live minnows or bait fish.

\* \* \* \* \*

(iii) We prohibit the use of lead fishing sinkers on all waters of the refuge except the Little River Recreation Area.

\* \* \* \* \*

(h) \* \* \*

(4) Sport fishing. We allow fishing on designated areas of the refuge subject to the following conditions:

(i) Ice fishing anglers must not be on the ice until 1 hour prior to legal sunrise and must be off the ice by 1 hour after legal sunset.

(ii) Ice fishing anglers must remove ice shacks by 1 hour after legal sunset (see § 27.93 of this chapter).

(iii) We restrict angler foot travel to posted access points, public roads, and lake ice.

(iv) We allow fishing with the use of nonmotorized boats, canoes, and kayaks.

\* \* \* \* \*

■ 31. Amend § 32.62 by:

■ a. Revising paragraphs (a)(1)(i) and (ii), (e)(1) introductory text, (e)(1)(i), (iii) and (ix);

■ b. Adding paragraphs (e)(1)(x) through (xii);

■ c. Revising paragraph (e)(4)(iii);

■ d. Redesignating paragraph (e)(4)(iv) as paragraph (e)(4)(v);

■ e. Adding new paragraphs (e)(4)(iv) and (g)(2);

■ f. Revising paragraphs (g)(3), (h)(1)(i), (h)(2), (h)(3)(iv), (i)(3)(ii) and (iii);

■ g. Removing paragraph (i)(3)(iv);

■ h. Redesignating paragraphs (i)(3)(v) through (xi) as paragraphs (i)(3)(iv) through (x);

■ i. Revising newly redesignated paragraphs (i)(3)(iv) and (viii);

■ j. Revising paragraphs (i)(4), (j)(1)(i), (k)(1)(ii), (viii) and (xii);

■ k. Redesignating paragraphs (l) through (n) as paragraphs (n) through (p);

■ l. Adding new paragraphs (l) and (m); and

■ m. Revising newly redesignated paragraphs (n)(4)(ii), (o)(1)(ii), (o)(4)(iii), (p)(2)(i) through (iii), and (p)(3)(i) and (ii).

The revisions and additions read as follows:

§ 32.62 Texas.

\* \* \* \* \*

(a) \* \* \*

(1) \* \* \*

(i) You must carry a current signed refuge hunting permit (signed refuge hunt brochure) while waterfowl hunting on all refuge hunt units.

(ii) Season dates for waterfowl will be concurrent with the State, except as specified in the refuge hunt brochure.

\* \* \* \* \*

(e) \* \* \*

(1) Migratory game bird hunting. We allow hunting of goose, duck, coot, merganser, mourning dove, white-winged dove, Eurasian collared-dove, and rock pigeon on designated areas of the refuge subject to the following conditions:

(i) Season dates will be concurrent with the State for the September teal season; youth-only season; duck, coot, and merganser regular season in the Texas South Zone; goose regular season in the Texas East Zone; and dove and pigeon season in the Texas South Zone, including special white-winged dove days, except that we prohibit duck (not including the September teal and youth-only seasons), coot, and merganser hunting on the refuge until the last Saturday in October. If the State-specified duck, coot, and merganser regular season opens later than the last Saturday in October, then hunting on the refuge will open consistent with the State-specified season date.

\* \* \* \* \*

(iii) Hunters may enter the refuge waterfowl hunt units no earlier than 4 a.m. Hunting starts at the designated legal shooting time and ends at 12 p.m. (noon). Hunters must leave refuge hunt units by 1 p.m.

\* \* \* \* \*

(ix) You may access hunt units from land by foot or nonmotorized conveyance from designated parking areas and turn-arounds. You may access public waterfowl hunting areas by motorized boat from State waters, where applicable.

(x) Hunters may enter the refuge dove/pigeon hunt units no earlier than 30 minutes prior to designated legal shooting time and leave refuge hunt units no later than 30 minutes after legal sunset.

(xi) Hunting dove and pigeon in the Farm Field Unit is only allowed after early teal season and will close before the beginning of general duck season in October.

(xii) Hunters must possess a signed brochure on their person while hunting on the refuge.

\* \* \* \* \*

(4) \* \* \*

(iii) We prohibit the use of trotlines, sail lines, set lines, jugs, gigs, spears, bush hooks, snatch hooks, crossbows, noodling, or bows and arrows of any type.

(iv) Anglers age 17 and older fishing in Cannan Bend Recreation Area must



possess a day or annual fishing pass and a signed fishing brochure on their person.

\* \* \* \* \*

(g) \* \* \*

(2) *Upland game hunting.* We allow the hunting of Eastern gray and fox squirrel on designated areas of the refuge subject to the following conditions:

(i) Squirrel hunting on the refuge will open with the close of the white-tailed deer season in January and close February 28. The season will reopen from May 1 through May 31.

(ii) Hunters must possess and carry a signed refuge hunt brochure while hunting.

(iii) We allow the use of shotgun only.

(3) *Big game hunting.* We allow hunting of white-tailed deer and feral hog on designated areas of the refuge subject to the following conditions:

(i) The refuge will determine season dates and bag limits.

(ii) The condition set forth at paragraph (g)(2)(ii) of this section applies.

(iii) Hunters age 17 and younger must be under the direct supervision of an adult age 18 or older.

(iv) You may hunt feral hog during any established white-tailed deer refuge hunting season. You must obtain and possess a refuge signed hunt brochure and may only use legal weapons for the current hunting season.

(v) We allow hunters to access the refuge no more than 2 hours before legal sunrise and no more than 2 hours after legal sunset.

(vi) You may participate in the refuge firearms drawn deer hunt only with a Texas Parks and Wildlife Department-drawn hunt permit.

(vii) We allow the use of only portable blinds and tree stands on the refuge. You must remove blinds, tree stands, and all other personal equipment from the refuge at the end of each day's hunt (see § 27.93 of this chapter).

(viii) We allow all-terrain vehicles for medically documented disabled hunters by Special Use Permit (FWS Form 3-1383-G only).

\* \* \* \* \*

(h) \* \* \*

(1) \* \* \*

(i) You must possess and carry a signed refuge hunt brochure.

\* \* \* \* \*

(2) *Upland game hunting.* We allow hunting of fox squirrel and Eastern cottontail rabbit in the months of January, February, and September on designated areas of the refuge and subject to the following condition: The conditions set forth at paragraphs

(h)(1)(i) through (vii) of this section apply.

(3) \* \* \*

(iv) We allow muzzleloaders, bow and arrow, and shotguns only for feral hog and spring turkey hunts. You may possess only lead-free, approved nontoxic (steel, bismuth, copper, or tungsten; see § 32.2(k) bullets, slugs, and shot (00 buck for hogs, no shell larger than #4 shot size for turkey).

\* \* \* \* \*

(i) \* \* \*

(3) \* \* \*

(ii) We require hunters to attend refuge hunter orientation before hunting on the refuge. We require each hunter to obtain and carry with them a signed and dated refuge hunt brochure in addition to the State hunt permit.

(iii) Bag limits for species hunted on the refuge are provided in the refuge hunt brochure annually.

(iv) We allow a scouting period prior to the commencement of each refuge hunt period. A permitted hunter and a limit of two non-permitted individuals may enter the hunt units during the scouting period, which begins after hunter orientation and ends at legal sunset. Each hunter must clearly display a Vehicle Validation Tag (FWS Form 3-2405) face up on the vehicle dashboard when scouting and hunting.

\* \* \* \* \*

(viii) During American alligator hunts, we allow hunters to leave hooks set over only one night period at a time; set lines must be checked daily.

\* \* \* \* \*

(4) *Sport fishing.* We allow fishing and crabbing on designated areas of the refuge subject to the following conditions:

(i) We allow only pole and line, rod and reel, hand line, dip net, and cast net for fishing. We prohibit the use of crab traps or pots for crabbing.

(ii) Anglers must attend all fishing lines, crabbing equipment, and other fishing devices at all times.

(iii) Inside the refuge boundary on San Martin Lake, we allow bank and wade fishing within a designated area, which may be accessed only on foot.

(j) \* \* \*

(1) \* \* \*

(i) We require hunters to obtain a refuge hunt permit (signed refuge hunt brochure) and to possess and carry that signed refuge hunt brochure at all times during the designated hunt period. Hunters must also display the vehicle placard (part of the refuge hunt permit) while participating in the designated hunt period.

\* \* \* \* \*

(k) \* \* \*

(1) \* \* \*

(ii) You must possess and carry a current signed refuge hunting permit (signed refuge hunt brochure) while hunting on all units of the refuge.

\* \* \* \* \*

(viii) We only allow hunting in the Spaced Hunt Units on Saturdays, Sundays, and Tuesdays of the regular waterfowl season. We allow a maximum of four hunters per area. Hunters must possess and carry Special Fee Area Permits (signed refuge hunt brochure) while hunting.

\* \* \* \* \*

(xii) We require a minimum distance between hunt parties, and between hunters and drivable roads and buildings, of 200 yards (183 meters).

\* \* \* \* \*

(1) *Muleshoe National Wildlife Refuge—(1) Migratory game bird hunting.* We allow hunting of mourning dove, white-winged dove, and Eurasian collared-dove on designated areas of the refuge subject to the following conditions:

(i) Hunters must possess and carry a signed refuge hunt brochure while hunting.

(ii) During the dove season set by the State of Texas, we limit hunting to no more than 6 days with a maximum of 12 hunters per season.

(iii) We allow hunting from ½ hour before legal sunrise until 12 p.m. (noon).

(iv) We require hunters to check in and out at refuge headquarters.

(v) Hunters must exit the refuge no later than 45 minutes after legal sunset, unless they are camping in a designated camping area. From 45 minutes after legal sunset until 30 minutes before legal sunrise, we prohibit hunters in all areas of the refuge except designated camping areas.

(vi) We allow the use of dogs when hunting.

(vii) We only allow shotguns.

(2) *Upland game hunting.* We allow the hunting of Northern bobwhite and scaled (blue) quail on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (l)(1)(i), and (iv) through (vii) of this section apply.

(ii) During the first 2 weeks of the quail season set by the State of Texas, we limit hunting to no more than 6 days with a maximum of 12 hunters per season.

(iii) We allow hunting from 8:30 a.m. to 4:30 p.m.

(3) *Big game hunting.* We allow the hunting of white-tailed deer and mule deer, and the incidental take of feral hog, on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (l)(1)(i), (iv), and (v) of this section apply.

(ii) Between October and January, we limit hunting to no more than 20 days with a maximum of 8 hunters per season.

(iii) You may use only high-powered rifles of .242/6mm caliber or larger and archery equipment to hunt big game on the refuge.

(4) [Reserved]

(m) *Neches River National Wildlife Refuge*—(1) *Migratory game bird hunting*. We allow hunting of ducks, coot, and merganser on designated areas of the refuge subject to the following conditions:

(i) Hunters may enter the refuge no earlier than 4:30 a.m. We allow hunting from the State-designated legal shooting time until 12 p.m. (noon). Hunters must leave refuge hunt units by 1 p.m.

(ii) In Dead Water unit only, we allow the use of floating craft and motor boats, but only if they are propelled by paddling, push pole, or electric trolling motor.

(iii) We prohibit hunting within 50 yards (45 meters) of any road or trail, and within 200 yards (183 meters) of any building.

(iv) We require each hunter to obtain and carry with them a signed refuge hunt brochure in addition to the State hunt permit.

(v) You must remove all boats, blinds, temporary blinds, stands decoys, and other personal equipment following each hunt day (see §§ 27.93 and 27.94 of this chapter).

(vi) We allow the use of dogs when hunting.

(2) *Upland game hunting*. We allow hunting of Eastern gray and fox squirrel, cottontail and swamp rabbit, raccoon, beaver, and coyote subject to the following conditions:

(i) The conditions set forth at paragraphs (m)(1)(iii), (iv), and (vi) of this section apply.

(ii) We allow incidental take of beaver and coyote during any refuge hunt with the weapons legal for that hunt, subject to applicable State seasons and regulations.

(iii) We allow the hunting of raccoon and coyote from legal sunset to legal sunrise. We allow artificial lighting for hunting raccoon and coyote.

(iv) We require that refuge hunters turn in the Harvest Report (FWS Form 3–2542) within 2 weeks of the end of your hunt.

(v) We allow squirrel, rabbit, and raccoon hunting on the refuge from October 1 to 23.

(3) *Big game hunting*. We allow hunting of white-tailed deer and feral

hog on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (m)(1)(iii) and (iv) of this section apply.

(ii) We allow incidental take of feral hog during any refuge hunt with the weapons legal for that hunt, subject to applicable State seasons and regulations.

(iii) We require a Harvest Report (FWS Form 3–2542) within 2 weeks of the end of your hunt. Failure to submit the Harvest Report will render the hunter ineligible for the next year’s hunt.

(iv) We require a minimum distance between hunt parties of 150 yards (137 meters).

(v) We prohibit the use of dogs when feral hog hunting.

(4) [Reserved]

(n) \* \* \*

(4) \* \* \*

(ii) The condition set forth at paragraph (n)(1)(v) of this section applies.

\* \* \* \* \*

(o) \* \* \*

(1) \* \* \*

(ii) You must possess and carry a current signed refuge hunting permit (signed refuge hunt brochure) while hunting on all hunt units of the refuge.

\* \* \* \* \*

(4) \* \* \*

(iii) The conditions set forth at paragraphs (o)(1)(vi) and (vii) of this section apply.

\* \* \* \* \*

(p) \* \* \*

(2) \* \* \*

(i) We require hunters to possess a refuge permit (signed refuge hunt brochure). The hunter must carry the nontransferable permit at all times while hunting.

(ii) We require that refuge hunters turn in the Harvest Report (FWS Form 3–2542) by the date specified on the permit. Failure to submit the report will render the hunter ineligible for the next year’s limited upland game hunt.

(iii) The condition set forth at paragraph (p)(1)(v) of this section applies.

\* \* \* \* \*

(3) \* \* \*

(i) We require a refuge permit (signed refuge hunt brochure) and Harvest Report (FWS Form 3–2542). Hunters must turn in both forms by the date specified on the permit. Failure to submit the Harvest Report will render the hunter ineligible for the next year’s limited big game hunt. Drawings are by lottery. The hunter must carry the nontransferable permit at all times while hunting.

(ii) The conditions set forth at paragraphs (p)(1)(v) and (p)(2)(iv) through (vii) of this section apply.

\* \* \* \* \*

■ 32. Amend § 32.63 by revising paragraphs (c)(1) and (c)(3) introductory text to read as follows:

§ 32.63 Utah.

\* \* \* \* \*

(c) \* \* \* (1) *Migratory game bird hunting*. We allow hunting of duck, coot, sandhill crane, and goose on designated areas of the refuge subject to the following condition: During hunting season, the refuge is open from 1½ hours before legal sunrise to 1½ hours after legal sunset.

\* \* \* \* \*

(3) *Big game hunting*. We allow hunting of deer, pronghorn, and elk on designated areas of the refuge subject to the following conditions:

\* \* \* \* \*

■ 33. Revise § 32.64 to read as follows:

§ 32.64 Vermont.

The following refuge units are open for hunting and/or fishing as governed by applicable Federal and State regulations, and are listed in alphabetical order with additional refuge-specific regulations.

(a) *Missisquoi National Wildlife Refuge*—(1) *Migratory game bird hunting*. We allow hunting of goose, duck, brant, merganser, coot, woodcock, and snipe on designated areas of the refuge subject to the following conditions:

(i) We allow the use of dogs consistent with State regulations, except hunters using more than two dogs must possess a Special Use Permit (FWS Form 3–1383–G) issued by the refuge manager.

(ii) We require the use of dogs for hunting waterfowl in the Maquam Swamp, Long Marsh Channel/Metcalf Island, and Saxes Pothole/Creek and Shad Island Pothole areas.

(iii) We prohibit blind staking and unattended decoys.

(iv) In the controlled waterfowl hunting areas:

(A) Hunters must possess a refuge permit (FWS Form 3–2439).

(B) Hunters may only hunt within 100 feet (30 meters) of a numbered stake placed by the refuge staff.

(v) In the Delta Lakeshore Area, we prohibit jumpshooting within 200 yards (183 meters) of a party hunting from a boat or blind.

(vi) In the Maquam Shore Area:

(A) We do not require a refuge permit to hunt or scout in this area.

(B) We prohibit jumpshooting within 200 yards (183 meters) of a party hunting from a boat or blind.

(vii) In the Saxes Pothole/Creek and Shad Island Pothole, each hunting party must possess and carry a permit (FWS Form 3–2439) for the specific zone on the specific day they are hunting in this area. Permits are not transferable.

(viii) In the Junior Waterfowl Hunting Area:

(A) Each junior hunter must possess and carry a permit (FWS Form 3–2439) for the assigned blind site and day. On Mentor Day, mentors must also possess and carry this permit for the assigned blind site. Each adult hunting party must possess and carry a permit for the blind site and day they are hunting. Permits are not transferable.

(B) Shooting hours end at 11 a.m.

(ix) In the Long Marsh Channel and Metcalfe Island:

(A) We limit hunting to Tuesdays, Thursdays, and Saturdays throughout the waterfowl hunting season for duck.

(B) Each hunting party must possess and carry a permit for the blind on the specific day they are hunting in this area. Permits are not transferable.

(C) Shooting hours end at 11 a.m.

(D) We close this area to waterfowl hunting during split seasons when geese are the only waterfowl that hunters may legally take.

(2) *Upland game hunting.* We allow hunting of cottontail rabbit, snowshoe hare, ruffed grouse, gray squirrel, coyote, red fox, gray fox, skunk, raccoon, weasel, and opossum on designated areas of the refuge subject to the following conditions:

(i) The condition set forth at paragraph (a)(1)(i) of this section applies.

(ii) Prior to hunting, you must obtain from refuge headquarters and sign a current refuge hunt brochure (signed brochure). You must possess the signed refuge hunt brochure at all times while hunting, and you must hold a valid State hunting license.

(iii) You may use only shotguns, muzzleloaders, or archery equipment on open areas east and north of Vermont Route 78, east of the Missisquoi River, and on Shad Island.

(iv) We prohibit hunting from the end of the State snowshoe hare and rabbit season (early March) until September 1.

(v) On the Eagle Point Unit, the conditions set forth at paragraphs (a)(2)(i) through (iii) of this section do not apply.

(3) *Big game hunting.* We allow hunting of white-tailed deer, moose, bear, and turkey on designated areas of the refuge subject to the following conditions:

(i) Prior to hunting, you must obtain from refuge headquarters and sign a current refuge hunt brochure (signed

brochure). You must possess the signed refuge hunt brochure at all times while hunting, and you must hold a valid State hunting license.

(ii) You may use only shotguns, muzzleloaders, or archery equipment on open areas east and north of Vermont Route 78, east of the Missisquoi River. We prohibit rifles in these areas at any time.

(iii) You may use portable tree stands as governed by State regulations guiding their use on State wildlife management areas with the following exception: We allow only one tree stand or ground blind for each permit holder.

(iv) On the Eagle Point Unit, we allow hunting subject to the following conditions:

(A) You may use portable tree stands as governed by State regulations guiding their use on State wildlife management areas.

(B) We allow training of dogs during the regular hunting seasons as governed by State regulations. We allow dog training outside the regular hunting seasons (*i.e.*, from June 1 through July 31) only with a Special Use Permit (FWS Form 3–1383–G).

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) We allow sport fishing (including bow fishing) by boat and ice fishing in designated areas with the following exceptions:

(A) We close the following areas year-round: Goose Bay, Saxes Creek and Pothole, Metcalfe Island Pothole, Long Marsh Channel, and Clark Marsh.

(B) We close the following areas from Labor Day to December 31: Long Marsh Bay and Long Marsh Channel.

(ii) We allow bank fishing along designated areas of Charcoal Creek.

(iii) We prohibit taking fish with firearms.

(iv) We prohibit boat launching on the refuge with the following exceptions: We allow launching from Louie's Landing year-round, and from Mac's Bend boat launch area from September through December (inclusive).

(b) *Silvio O. Conte National Fish and Wildlife Refuge—(1) Migratory game bird hunting.* We allow hunting of duck, goose, coot, crow, snipe, and American woodcock on designated areas of the refuge subject to the following conditions:

(i) We allow disabled hunters to hunt from a vehicle that is at least 10 feet from the traveled portion of the refuge road if the hunter possesses a State-issued disabled hunting license and a Special Use Permit (FWS Form 3–1383–G) issued by the refuge manager.

(ii) We allow the use of dogs consistent with State regulations, except hunters using more than two dogs must possess a Special Use Permit (FWS Form 3–1383–G) issued by the refuge manager.

(iii) We prohibit shooting from, over, or within 25 feet of the traveled portion of any road that is accessible to motor vehicles.

(2) *Upland game hunting.* We allow hunting of coyote, fox, raccoon, bobcat, woodchuck, red squirrel, eastern gray squirrel, porcupine, skunk, snowshoe hare, eastern cottontail, muskrat, opossum, weasel, pheasant, and ruffed grouse on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (b)(1)(i) through (iii) of this section apply.

(ii) At the Putney Mountain Unit, we allow the use of dogs only for hunting ruffed grouse.

(iii) We require hunters hunting at night to possess a Special Use Permit (FWS Form 3–1383–G) issued by the refuge manager.

(iv) We allow the training of dogs as governed by State regulations from August 1 through the last Saturday in September during daylight hours, if the trainer possesses a Special Use Permit (FWS Form 3–1383–G) issued by the refuge manager.

(3) *Big game hunting.* We allow hunting of white-tailed deer, moose, black bear, and wild turkey on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (b)(1)(i) through (iii) of this section apply.

(ii) You may use portable tree stands and/or blinds. You must clearly label your tree stand(s) and/or blind(s) with your hunting license number. You must remove your tree stand(s) and/or blind(s) no later than 72 hours after the close of the season (see § 27.93 of this chapter).

(iii) You may retrieve moose at the Nulhegan Basin Division with the use of a commercial moose hauler, if the hauler possesses a Special Use Permit (FWS Form 3–1383–C) issued by the refuge manager.

(iv) We allow the training of dogs as governed by State regulations from August 1 through September 15 during daylight hours, if the trainer possesses a Special Use Permit (FWS Form 3–1383–G) issued by the refuge manager.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge consistent with State regulations.

■ 34. Amend § 32.65 by:

■ a. Revising paragraph (c);

- b. Adding paragraph (d)(4);
  - c. Revising paragraphs (e) through (k);
  - d. Redesignating paragraph (l) as (n); and
  - e. Adding new paragraphs (l) and (m).
- The revisions and additions read as follows:

### § 32.65 Virginia.

\* \* \* \* \*

(c) *Eastern Shore of Virginia National Wildlife Refuge*—(1) *Migratory game bird hunting*. We allow hunting of waterfowl, rail, snipe, gallinule/ moorhen, coot, woodcock, dove, and crow on designated areas of the refuge subject to the following conditions:

(i) We allow holders of a signed hunt brochure (signed brochure) to access areas of the refuge typically closed to the non-hunting public. All occupants of a vehicle or hunt party must possess a signed brochure and be actively engaged in hunting. We allow an exception for those persons aiding a disabled person who possesses a valid State-issued Commonwealth of Virginia Disabled Resident Lifetime License or Commonwealth of Virginia Resident Disabled Veteran's Lifetime License.

(ii) Hunters may enter the refuge no earlier than 2 hours prior to legal sunrise and must exit the refuge no later than 2 hours after legal sunset.

(iii) In the Firearms Units only, we allow the use of dogs consistent with State and Northampton County regulations.

(iv) We allow hunting on the refuge only from September 1 until February 28. Hunting will follow State seasons during that period.

(v) We allow migratory bird hunting with archery and firearms in the designated Firearms Units on the refuge in accordance with State and County regulations.

(2) *Upland game hunting*. We allow hunting of rabbit, squirrel, quail, raccoon, opossum, fox, coyote, and other nuisance species (groundhog, European starling, English sparrow, and pigeon) on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (c)(1)(i) through (iv) of this section apply.

(ii) We allow the use of archery tackle, as defined by the State, in designated Archery and Firearms Units.

(iii) We allow the use of firearms in accordance with State and Northampton County regulations in the designated Firearms Units only.

(3) *Big game hunting*. We allow hunting of white-tailed deer and wild turkey on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (c)(1)(i), (ii), and (iv), and (c)(2)(ii) and (iii) of this section apply.

(ii) We allow turkey hunting during the spring season only for a mentor-led hunt.

(iii) We require the use of nontoxic ammunition when hunting turkey in the Firearms Units.

(iv) We prohibit organized deer drives. We define a "deer drive" as an organized or planned effort to pursue, drive, chase, or otherwise frighten or cause deer to move in the direction of any person(s) who is part of the organized or planned hunt and known to be waiting for the deer.

(v) You may not hunt, discharge a firearm, or nock an arrow or crossbow bolt outside of the designated hunting areas.

(vi) We allow the use of portable tree stands and require removal of the stands after each day's hunt (see § 27.93 of this chapter).

(4) *Sport fishing*. We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) Anglers may access the refuge to fish from shore on the Bull Tract and Skidmore Island from ½ hour before legal sunrise to ½ hour after legal sunset.

(ii) Anglers may access State waters via the Wise Point Boat Ramp on the refuge from 5 a.m. to 10 p.m.

(d) \* \* \*

(4) *Sport fishing*. We allow freshwater fishing in designated areas of the refuge subject to the following conditions:

(i) We allow fishing from nonmotorized boats only.

(ii) We prohibit the use of lead fishing tackle.

(e) *Featherstone National Wildlife Refuge*—(1) *Migratory game bird hunting*. We allow hunting of waterfowl on designated areas of the refuge subject to the following conditions:

(i) We allow the use of dogs consistent with State regulations.

(ii) We limit boat access to nonmotorized boats only in Farm Creek Unit. We allow motorized boat access in Neabsco Creek Unit.

(2)–(3) [Reserved]

(4) *Sport fishing*. We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) The condition set forth at paragraph (e)(1)(ii) of this section applies.

(ii) We prohibit the use of lead fishing tackle.

(f) *Fisherman Island National Wildlife Refuge*—(1) *Migratory game bird hunting*. We allow hunting of waterfowl, rail, snipe, gallinule/ moorhen, coot, woodcock, dove, and

crow on designated areas of the refuge subject to the following conditions:

(i) We allow the use of dogs consistent with State regulations.

(ii) We require hunters to possess and carry a signed refuge hunt brochure when hunting.

(iii) We allow hunting and hunter access by boat only. We prohibit hunting from land. Retrieval dogs may retrieve fallen game on shore.

(iv) We allow hunting on the refuge from September 1 until February 28. Hunting will follow State seasons during that period.

(v) Hunters may enter the refuge 2 hours before legal sunrise and must exit the refuge no later than 2 hours after legal sunset.

(2)–(4) [Reserved]

(g) *Great Dismal Swamp National Wildlife Refuge*. (1) [Reserved]

(2) *Upland game hunting*. We allow hunting of gray squirrel and coyote on designated areas of the refuge subject to the following conditions:

(i) We allow hunting on Thursdays, Fridays, and Saturdays only.

(ii) You must possess and carry a signed refuge permit (FWS Form 3–2439).

(3) *Big game hunting*. We allow hunting of white-tailed deer, wild turkey, and black bear on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (g)(2)(i) and (ii) of this section apply.

(ii) We require the use of nontoxic ammunition for hunting wild turkey.

(4) *Sport fishing*. We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) We allow fishing in Lake Drummond from a boat (maximum 25 horsepower) and from the piers at Washington Ditch Road and Interior Ditch Road.

(ii) We prohibit fishing from the ditch banks on the refuge.

(iii) We require a Special Use Permit (FWS Form 3–1383–G) for vehicular access to the boat ramp on Interior Ditch Road on the west side of Lake Drummond.

(h) *James River National Wildlife Refuge*. (1) [Reserved]

(2) *Upland game hunting*. We allow hunting of rabbit, squirrel, and coyote on designated areas of the refuge subject to the following conditions:

(i) We only allow the hunting and take of coyote concurrently during the refuge deer hunting season.

(ii) We allow rabbit and squirrel hunting only during the mentor-led hunt.

(iii) We prohibit the use of pursuit dogs.

(3) *Big game hunting.* We allow hunting of white-tailed deer and wild turkey on designated areas of the refuge subject to the following conditions:

(i) The condition set forth at paragraph (h)(2)(iii) of this section applies.

(ii) We require spring turkey hunters to possess and carry a refuge hunting permit (FWS Form 3-2439).

(iii) Hunters may enter the refuge no earlier than 1 hour prior to the start of legal shooting time and must exit the refuge no later than 1 hour after the end of legal shooting time.

(iv) We require the use of nontoxic ammunition when hunting spring wild turkey.

(v) Hunters using a muzzleloader must hunt from a stand elevated 10 feet (3 meters) or more above the ground.

(vi) We prohibit organized deer drives. We define a “deer drive” as an organized or planned effort to pursue, drive, chase, or otherwise frighten or cause deer to move in the direction of any person(s) who is part of the organized or planned hunt and known to be waiting for the deer.

(4) *Sport fishing.* We allow fishing on designated areas of the refuge subject to the following conditions:

(i) We allow fishing access each day from legal sunrise to legal sunset.

(ii) We allow fishing only by use of one or more attended poles with hook and line attached. We prohibit all other fishing methods and means.

(iii) We prohibit the use of lead fishing tackle.

(iv) We prohibit the use of minnows as bait.

(i) *Mackay Island National Wildlife Refuge.* Refer to § 32.52(e) for regulations.

(j) *Occoquan Bay National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of coyote and fox on designated areas of the refuge subject to the following condition: We only allow the incidental take of coyote and fox during the refuge deer hunting season.

(3) *Big game hunting.* We allow hunting of white-tailed deer and wild turkey on designated areas of the refuge subject to the following conditions:

(i) With the exception of mentored hunt participants, white-tailed deer hunters must possess and carry a signed refuge permit (FWS Form 3-2439) and be selected in the refuge lottery to hunt.

(ii) We only allow shotguns with slugs during the firearm season.

(iii) We prohibit organized deer drives. We define a “deer drive” as an organized or planned effort to pursue, drive, chase, or otherwise frighten or cause deer to move in the direction of

any person(s) who is part of the organized or planned hunt and known to be waiting for the deer.

(iv) We prohibit the use of pursuit dogs when hunting deer.

(v) We require the use of nontoxic ammunition when hunting wild turkey.

(vi) Hunters must certify and qualify weapons and ammunition at a refuge-approved range and view the refuge orientation session online prior to issuance of a refuge permit (FWS Form 3-2439).

(vii) Wild turkey hunting is a mentored hunt only.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) We allow boat access by nonmotorized boats only.

(ii) We prohibit the use of lead fishing tackle.

(k) *Plum Tree Island National Wildlife Refuge—(1) Migratory game bird hunting.* We allow hunting of migratory waterfowl and coot on designated areas of the refuge subject to the following conditions:

(i) You must hunt from a designated refuge blind.

(ii) We allow the use of dogs consistent with State regulations.

(2)–(3) [Reserved]

(4) *Sport fishing.* We allow fishing in designated areas of the refuge subject to the following conditions:

(i) We allow fishing access April 1 through August 31, from legal sunrise to legal sunset.

(ii) We prohibit shoreline fishing. We allow fishing only from boats untethered to refuge lands, or from designated blinds.

(iii) We allow fishing only by use of one or more attended poles with hook and line attached. We prohibit all other fishing methods and means.

(iv) We prohibit the use of lead fishing tackle.

(l) *Presquile National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of coyote on designated areas of the refuge subject to the following conditions:

(i) Hunters may enter the refuge no earlier than 2 hours prior to the start of legal shooting time and must exit the refuge no later than 2 hours after the end of legal shooting time.

(ii) We only allow the hunting and take of coyote concurrently during the refuge deer hunting season.

(iii) We require hunters to dock their boats at designated locations on the refuge.

(3) *Big game hunting.* We allow hunting of white-tailed deer on designated areas of the refuge subject to the following conditions:

(i) The condition set forth at paragraph (l)(2)(iii) of this section applies.

(ii) We prohibit the use of pursuit dogs when hunting white-tailed deer.

(iii) We require big game hunters to obtain a permit through a lottery administered by a third-party contractor.

(iv) We prohibit organized deer drives. We define a “deer drive” as an organized or planned effort to pursue, drive, chase, or otherwise frighten or cause deer to move in the direction of any person(s) who is part of the organized or planned hunt and known to be waiting for the deer.

(4) *Sport fishing.* We allow fishing on designated areas of the refuge subject to the following conditions:

(i) We allow fishing access each day from legal sunrise to legal sunset.

(ii) We prohibit bank fishing. We allow fishing only from boats untethered to refuge lands.

(iii) We allow fishing only by use of one or more attended poles with hook and line attached. We prohibit all other fishing methods and means.

(iv) We prohibit the use of minnows as bait.

(v) We prohibit the use of lead fishing tackle.

(m) *Rappahannock River Valley National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of coyote, rabbit, and squirrel on designated areas of the refuge subject to the following conditions:

(i) We prohibit the use of pursuit dogs.

(ii) We only allow the hunting and take of coyote concurrently during the refuge deer hunting season.

(3) *Big game hunting.* We allow hunting of white-tailed deer and wild turkey on designated areas of the refuge subject to the following conditions:

(i) The condition set forth at paragraph (m)(2)(i) of this section applies.

(ii) We require the use of nontoxic ammunition when hunting spring wild turkey.

(iii) In designated areas and for the spring turkey hunt, we require hunters to possess and carry a refuge hunting permit (FWS Form 3-2439).

(iv) Hunters may enter the refuge no earlier than 1 hour prior to the start of legal shooting time and must exit the refuge no later than 1 hour after the end of legal shooting time.

(v) We prohibit organized deer drives. We define a “deer drive” as an organized or planned effort to pursue, drive, chase, or otherwise frighten or cause deer to move in the direction of any person(s) who is part of the

organized or planned hunt and known to be waiting for the deer.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

- (i) We allow fishing access each day from legal sunrise to legal sunset.
- (ii) During the period when the refuge is open for hunting, we may close hunting areas to all other uses, including sport fishing.
- (iii) We allow fishing only by use of one or more attended poles with hook and line attached. We prohibit all other fishing methods and means.
- (iv) We prohibit the use of lead fishing tackle in freshwater ponds, including Wilna Pond and Laurel Grove Pond.
- (v) We require catch-and-release fishing for largemouth bass in freshwater ponds, including Wilna Pond and Laurel Grove Pond. Anglers may take other finfish species as governed by State regulations.
- (vi) We prohibit the use of minnows as bait.
- (vii) We prohibit the use of boats propelled by gasoline motors, sail, or mechanically operated paddle wheel while fishing.

\* \* \* \* \*

■ 35. Amend § 32.66 by revising paragraphs (f)(3)(v), (i)(1)(iv), (x) and (xi) to read as follows:

**§ 32.66 Washington.**

\* \* \* \* \*

(f) \* \* \*

(3) \* \* \*

(v) We require hunters to sign in and out each day at the refuge headquarters. When signing out for the day, you must report hunting success or failure, and any hit-but-not-retrieved animals on the Harvest Report (FWS Form 3–2542).

\* \* \* \* \*

(i) \* \* \*

(1) \* \* \*

(iv) Prior to entering the hunt area, you must check in at the refuge check station, and obtain a Harvest Report (FWS Form 3–2542). You must carry the Harvest Report while hunting as proof of blind assignment and user fee payment.

\* \* \* \* \*

(x) Prior to switching blinds, you must first report to the refuge check station to obtain a new blind assignment. You must submit an accurate Harvest Report (FWS Form 3–2542) for the blind being vacated, and obtain a new Harvest Report for the new blind.

(xi) Prior to leaving the hunt area, you must check out at the refuge check station, submit an accurate Harvest

Report (FWS Form 3–2542), and present all harvested birds for inspection by check station personnel.

\* \* \* \* \*

■ 36. Amend § 32.67 by revising paragraphs (b)(2) and (3) to read as follows:

**§ 32.67 West Virginia.**

\* \* \* \* \*

(b) \* \* \*

(2) *Upland game hunting.* We allow hunting of squirrel, Eastern cottontail rabbit, red and gray fox, coyote, bobcat, opossum, raccoon, skunk, woodchuck, weasel, ruffed grouse, quail, pheasant, and crow on designated areas of the refuge subject to the following condition: The conditions set forth at paragraphs (b)(1)(i) through (iii) of this section apply.

(3) *Big game hunting.* We allow hunting of white-tailed deer, wild turkey, and black bear on designated areas of the refuge subject to the following conditions:

- (i) The conditions set forth at paragraphs (b)(1)(i) and (ii) of this section apply.
- (ii) We only allow the use of archery equipment.
- (iii) We prohibit organized deer drives. We define a “deer drive” as an organized or planned effort to pursue, drive, chase, or otherwise frighten or cause deer to move in the direction of any person(s) who is part of the organized or planned hunt and known to be waiting for the deer.
- (iv) You must label portable tree stands with your last name and State license number. You may erect your stand(s) on the first day of the hunting season. You must remove your stand(s) by the last day of the hunting season (see § 27.93 of this chapter).

\* \* \* \* \*

- 37. Amend § 32.68 by:
  - a. Revising paragraphs (c) and (f)(1);
  - b. Adding paragraph (f)(2)(vi); and
  - c. Revising paragraph (f)(3) and (4).

The revisions and addition read as follows:

**§ 32.68 Wisconsin.**

\* \* \* \* \*

(c) *Hackmatack National Wildlife Refuge.* Refer to § 32.32(f) for regulations.

\* \* \* \* \*

(f) \* \* \* (1) *Migratory game bird hunting.* We allow hunting of duck, goose, coot, merganser, dove, moorhen/gallinule, rail, snipe, and woodcock on designated areas of the refuge subject to the following conditions:

- (i) Hunters may enter the refuge no earlier than 1 hour before legal shooting

hours and must exit the refuge no later than 1 hour after legal shooting hours.

(ii) You must remove all boats, decoys, blinds, blind materials, stands, platforms, and other hunting equipment (see §§ 27.93 and 27.94 of this chapter) brought onto the refuge at the end of each day’s hunt.

(iii) We allow the use of dogs while hunting, provided the dog is under the immediate control of the hunter at all times.

(iv) We prohibit hunting or shooting within 50 feet (15 meters (m)) of the centerline of all public roads, service roads, and trails, and around parking lots. It is considered hunting if you have a loaded weapon, if you have a nocked arrow while bow hunting, or if you are in an elevated tree stand or ground blind with a means to take, within these areas.

(2) \* \* \*

(vi) The conditions set forth at paragraphs (f)(1)(i), (ii), and (iv) of this section apply.

(3) *Big game hunting.* We allow hunting of white-tailed deer on designated areas of the refuge subject to the following conditions:

- (i) The conditions set forth at paragraphs (f)(1)(i) and (iv) of this section apply.
- (ii) You may use portable elevated devices, but you must lower them to ground level at the close of shooting hours each day. You must remove all blinds, stands, platforms, and ladders from the refuge at the end of the hunting season (see §§ 27.93 and 27.94 of this chapter).
- (iii) You must clearly mark all non-natural blinds, stands, platforms, and ladders on the exterior with the hunter’s Wisconsin Department of Natural Resources customer identification number.
- (iv) We open Refuge Area 2 to deer hunting during the State archery, gun, and muzzleloader seasons, except that we close Refuge Area 2 to deer hunting during any early State antlerless-only hunts.

(v) We open Refuge Area 3 to deer hunting during the State regular gun, muzzleloader, and late archery seasons. Unarmed deer hunters may enter Refuge Area 3 to scout beginning the Saturday prior to the gun deer season.

(vi) You must remove flagging used during hunting by the close of the archery deer season (see §§ 27.93 and 27.94 of this chapter).

(vii) Any ground blind used during any gun deer season must display at least 144 square inches (929 square centimeters) of solid-blaze-orange or fluorescent pink material visible from all directions.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) Fishing areas are open from 30 minutes prior to legal sunrise to 30 minutes after legal sunset during refuge-specific seasons.

(ii) We allow use of nonmotorized boats in Sprague-Goose pools only when we open these pools to fishing.

(iii) We allow motorized boats in Suk Cerney Pool.

(iv) We allow fishing by hook and line only.

(v) We prohibit the taking of any mussel (clam), crayfish, frog, leech, or turtle species by any method on the refuge (see § 27.21 of this chapter).

\* \* \* \* \*

■ 38. Amend § 32.69 by revising paragraph (d)(3) to read as follows:

**§ 32.69 Wyoming.**

\* \* \* \* \*

(d) \* \* \*

(3) *Big game hunting.* We allow hunting of elk, pronghorn, white-tailed deer, and bison on designated areas of the refuge subject to the following conditions:

(i) We require refuge permits (issued by State of Wyoming).

(ii) We prohibit shooting from or across refuge roads and parking areas.

(iii) We allow hunting of pronghorn with a firearm in Pronghorn Hunt Area 1 from September 10 through October 31, and in Pronghorn Hunt Area 2 from October 1 through 31.

(iv) We allow archery hunting of pronghorn in Pronghorn Hunt Area 1 in accordance with State seasons and regulations.

(v) We allow hunting of white-tailed deer with a firearm in the White-tailed Deer Hunt Area from September 15 through October 30.

(vi) We allow archery hunting of white-tailed deer in the White-tailed Deer Hunt Area in accordance with State seasons and regulations.

(vii) The refuge hunt brochure will specify the type of ammunition approved for hunting on the refuge.

\* \* \* \* \*

**SUBCHAPTER E—MANAGEMENT OF FISHERIES CONSERVATION AREAS**

**PART 71—HUNTING AND SPORT FISHING ON NATIONAL FISH HATCHERIES**

■ 39. The authority citation for part 71 continues to read as follows:

**Authority:** Sec. 4, Pub. L. 73–121, 48 Stat. 402, as amended; sec. 4, Pub. L. 87–714, 76 Stat. 654; 5 U.S.C. 301; 16 U.S.C. 460k, 664, 668dd, 1534.

**§ 71.11 [Amended]**

■ 40. Amend § 71.11 by:

■ a. In paragraph (c)(4), removing the words “§ 71.12(k)” and adding in their place the words “§ 71.12(l)”;

■ b. In paragraph (d)(4), removing the words “§ 71.12(l)” and adding in their place the words “§ 71.12(m)”;

■ c. In paragraph (e)(4), removing the words “§ 71.12(m)” and adding in their place the words “§ 71.12(n)”;

■ d. In paragraph (g)(4), removing the words “§ 71.12(o)” and adding in their place the words “§ 71.12(p)”.

■ 41. Amend § 71.12 by:

■ a. Redesignating paragraphs (g) through (r) as paragraphs (h) through (s); and

■ b. Adding a new paragraph (g).  
The addition reads as follows:

**§ 71.12 National fish hatcheries open for sport fishing.**

\* \* \* \* \*

(g) *Green Lake National Fish Hatchery.* We allow sport fishing on designated areas of the hatchery.

\* \* \* \* \*

**Maureen D. Foster,**

*Chief of Staff, Office of the Assistant Secretary for Fish and Wildlife and Parks.*

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# Reader Aids

## Federal Register

Vol. 86, No. 166

Tuesday, August 31, 2021

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### FEDERAL REGISTER PAGES AND DATE, AUGUST

41381-41698	2
41699-41888	3
41889-42680	4
42681-43074	5
43075-43380	6
43381-43582	9
43583-43902	10
43903-44256	11
44257-44572	12
44573-44772	13
45621-45854	16
45855-46100	17
46101-46578	18
46579-46756	19
46757-46950	20
46951-47204	23
47205-47376	24
47377-47540	25
47541-48012	26
48013-48294	27
48295-48478	30
48479-48884	31

### CFR PARTS AFFECTED DURING AUGUST

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

<b>2 CFR</b>		800	46606
200	44573	915	44286, 47248
<b>3 CFR</b>		925	44644
<b>Proclamations:</b>		930	44647
10237	43903	944	44286
10238	46101	959	42748
10239	48479	980	42748
10240	48481	987	47599
<b>Executive Orders:</b>		1216	48046
14037	43583	<b>8 CFR</b>	
14038	43905	212	44593
14039	47205	214	44593
<b>Administrative Orders:</b>		245	44593
<b>Memorandums:</b>		274a	44593
Memorandum of		<b>Proposed Rules:</b>	
August 6, 2021		208	46906
August 17, 2021		212	47025
August 18, 2021		235	46906
August 18, 2021		1003	46906
August 18, 2021		1208	46906
August 18, 2021		1235	46906
<b>Notices:</b>		<b>9 CFR</b>	
Notice of August 6,		92	45621
2021		93	45621
Presidential		94	45621
Determinations:		95	45621
No. 2021-10 of August		98	45621
10, 2021		130	45621
No. 2021-11 of August		<b>10 CFR</b>	
11, 2021		Ch. I	43397, 47209
<b>5 CFR</b>		15	44594
315	46103	52	44262
316	46103	72	42681, 44262, 44594
330	46103	170	44594
<b>Proposed Rules:</b>		171	44594
1630	44642	431	46579
<b>6 CFR</b>		1704	48295
5	44574	<b>Proposed Rules:</b>	
27	41889	20	45923
158	47840	50	44290
<b>7 CFR</b>		51	47032
9	48013	52	47251
205	41699	72	42751, 44296, 44650
275	44575	73	43599
407	42681	429	43120
457	45855	430	41759, 43429, 43970,
761	43381	44298, 46611, 46793, 48049	
762	43381	431	43430, 46330, 46793,
764	43381	48049, 48058	
765	43381	460	47744
766	43381	<b>11 CFR</b>	
769	43381	<b>Proposed Rules:</b>	
932	44257	104	42753
985	44587	109	42753
993	44259	<b>12 CFR</b>	
1205	47541	7	42686
1470	41702	1026	44267, 46953
<b>Proposed Rules:</b>		<b>Proposed Rules:</b>	
205	47242	210	43143



330.....41766  
628.....47601  
702.....45824  
703.....45824  
1282.....47398

**14 CFR**

25.....46958  
39.....42687, 42689, 42689,  
42691, 42694, 42696, 42698,  
42701, 43075, 43404, 43406,  
43409, 43909, 44600, 45855,  
45858, 46109, 46111, 46113,  
46761, 46762, 46766, 46769,  
46771, 46959, 47210, 47212,  
47215, 47555, 47557, 48296,  
48483, 48485, 48488, 48490  
71.....41702, 41704, 41705,  
41707, 41708, 41709, 41712,  
41894, 43411, 43589, 43911,  
45630, 46774, 46961, 48018,  
48300, 48493, 48494, 48495,  
48496  
73.....44603  
97.....42704, 42708, 46774,  
46776, 48497, 48502  
250.....41381  
254.....41381  
382.....41382  
1204.....43412

**Proposed Rules:**

39.....41410, 41786, 41788,  
41791, 41794, 42754, 43437,  
43440, 43443, 43446, 43449,  
43451, 43454, 44314, 44316,  
44319, 44321, 44324, 44652,  
44655, 44657, 44660, 44663,  
46160, 46162, 46164, 46167,  
46626, 46629, 47033, 47036,  
47038, 47041, 47252, 47255,  
47258, 47260, 47264, 47417,  
47419, 47420, 47422, 47424,  
47427, 47608, 48065, 48067,  
48070, 48078, 48080, 48083,  
48086  
71.....41412, 43144, 43456,  
44668, 44670, 44671, 44674,  
47043, 48088, 48345, 48610  
139.....47266

**15 CFR**

740.....46590  
742.....46590  
743.....46590  
748.....46590  
758.....46590  
774.....46590  
922.....45860

**16 CFR**

310.....48301

**17 CFR**

200.....47561  
249.....45631  
241.....44604

**18 CFR**

4.....42710  
5.....42710  
35.....47562  
153.....43077  
157.....43077  
284.....43590

**19 CFR**

Ch. I.....46963, 46964

**Proposed Rules:**

102.....42758  
177.....42758

**20 CFR**

30.....46778  
404.....41382, 48020

**21 CFR**

201.....41383  
801.....41383  
1308.....44270

**Proposed Rules:**

73.....46803  
1308.....43978

**22 CFR**

121.....48021

**Proposed Rules:**

51.....43458

**25 CFR**

150.....45631

**26 CFR**

1.....42715, 42716

**27 CFR**

9.....47377, 47380

**Proposed Rules:**

5.....47429

**28 CFR**

2.....45860, 45861

**29 CFR**

**Proposed Rules:**

10.....41907  
23.....41907  
2702.....48346

**30 CFR**

**Proposed Rules:**

950.....41907

**31 CFR**

**Proposed Rules:**

210.....46631

**32 CFR**

117.....46597  
269.....46599

**33 CFR**

100.....43087, 43913, 44273,  
44606, 45644, 46115, 48022,  
48302  
117.....43914, 46966  
127.....43915  
154.....43915  
156.....43915  
165.....41402, 41404, 41713,  
41715, 42716, 43089, 43091,  
43413, 44275, 44608, 44610,  
45647, 45648, 45650, 45862,  
45864, 45866, 45868, 46117,  
46601, 46603, 46779, 46781,  
46968, 46970, 47217, 47382,  
47484, 47574, 48023, 48025,  
48027, 48304, 48305, 48306

**Proposed Rules:**

100.....41798, 41909  
110.....45936, 48354  
165.....42758, 44326, 45699,  
46636, 47044, 47433, 47611

328.....41911

**34 CFR**

Ch. III.....42718  
Ch. VI.....44277  
674.....46972  
682.....46972  
685.....46972

**Proposed Rules:**

Ch. VI.....43609

**37 CFR**

201.....46119  
203.....46119  
221.....46119

**38 CFR**

3.....42724  
9.....46982  
36.....46983  
38.....43091, 47386  
39.....43091, 47386

**39 CFR**

111.....43415  
121.....43941  
3011.....48503

**Proposed Rules:**

3050.....44676

**40 CFR**

9.....45651, 46123, 46133  
52.....41406, 41716, 42733,  
43418, 43954, 43956, 43960,  
43962, 44614, 44616, 45870,  
45871, 46984, 46986, 47219,  
47387, 47390, 47391, 47393,  
47580, 48504

62.....46989  
70.....47219  
82.....46992

180.....41895, 43964, 44618,  
44620, 44623, 45888, 46156,  
48029, 48032, 48308, 48315,  
48507

721.....45651, 46123, 46133

**Proposed Rules:**

52.....41413, 41416, 41421,  
41426, 41914, 43459, 43461,  
43613, 43615, 43617, 43984,  
45939, 45947, 45950, 46169,  
47046, 47268, 47270, 47435,  
48357

61.....48363  
62.....46639  
63.....48363

81.....44677, 45950  
86.....43469, 43726  
120.....41911  
174.....41809, 47275  
180.....41809, 47275

423.....41801  
600.....43469, 43726  
705.....41802

**41 CFR**

201.....47581  
201-01.....47581

**42 CFR**

110.....45655  
411.....42424  
412.....42608, 44774  
413.....42424, 44774  
414.....42362

418.....42528  
425.....44774  
455.....44774  
483.....42424  
489.....42424  
495.....44774

**Proposed Rules:**

412.....42018  
416.....42018  
419.....42018  
447.....41803  
512.....42018  
513.....43618

**43 CFR**

8360.....42735

**44 CFR**

59.....47395, 48511  
61.....47395, 48511  
62.....47395, 48511  
206.....45660

**45 CFR**

1174.....44626

**Proposed Rules:**

180.....42018

**46 CFR**

30.....42738  
150.....42738  
153.....42738

**Proposed Rules:**

10.....48090  
11.....48090  
15.....48090  
540.....47441

**47 CFR**

0.....48511  
1.....46995  
9.....45982  
10.....46783  
11.....46783  
20.....44635  
54.....41408, 46995, 48521  
64.....48511  
73.....42742, 43470, 48537,  
48538

**Proposed Rules:**

2.....46641, 46644  
10.....46804  
11.....46804  
15.....46661  
20.....44681  
27.....44329  
73.....41916, 43145, 48610  
74.....43145  
76.....48610

**48 CFR**

Ch. I.....44228, 44255  
2.....44229  
7.....44229  
10.....44229  
11.....44229  
12.....44229  
19.....44233, 44247, 44249  
39.....44229  
42.....44249, 44255  
52.....44233, 44249, 44255  
212.....48336  
225.....48336, 48339  
252.....48336

**Proposed Rules:**

204.....48366

215.....	48368
225.....	48370
242.....	48368
252.....	48370
517.....	48617
538.....	48617
552.....	48617

**49 CFR**

385.....	48038
541.....	48340
571.....	48539
1002.....	44282

**Proposed Rules:**

171.....	43844
172.....	43844
173.....	43844
175.....	43844
176.....	43844
178.....	43844
180.....	43844
371.....	43814
375.....	43814
391.....	47278
571.....	42762
575.....	42762
578.....	46811

**50 CFR**

17.....	41742, 41743, 43102, 45685, 46536, 47221, 48545
18.....	42982
20.....	45909, 48569
32.....	48822
71.....	48822
91.....	47593
224.....	47022
226.....	41668
300.....	47238
622.....	43117
635.....	42743, 43118, 43420,

43421, 47395	
648.....	48608
660.....	43967, 48343
665.....	42744, 47596
679.....	42746, 46792, 47240, 47597, 48045

**Proposed Rules:**

17.....	41917, 43470, 47457, 47916, 48619
20.....	48649
223.....	41935
229.....	43491
635.....	43151

---

**LIST OF PUBLIC LAWS**

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**Note:** No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

**Last List August 27, 2021**

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